An Enquiry Into The Sexual Abuse Of Children By School Board Employees In The Province Of British Columbia.

We Respectfully Submit Our Recommendations

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AN ENQUIRY INTO THE SEXUAL ABUSE OF CHILDREN BY SCHOOL BOARD EMPLOYEES IN THE PROVINCE OF BRITISH COLUMBIA

September 1986

The Honourable Anthony J. Brummet
Minister of Education

The Honourable Claude Richmond
Minister of Social Services and Housing

The Honourable Brian Smith, Q.C.
Attorney General

The Honourable James Neilson
Minister of Health

Dear Mr. Brummet, Mr. Richmond, Mr. Smith and Mr. Neilson:

In accordance with the Terms of Reference assigned on May 14, 1986, we have reviewed, and report upon the sexual abuse of children by employees of school boards in positions of trust.

In undertaking our mandate we have received valuable assistance and support from all government ministries, the helping professions, the general public and community and voluntary organizations.

Our recommendations would, if implemented, significantly increase the protection offered to each child from being sexually abused by school district employees. The actions we propose, if strongly coordinated and supported by measures which ensure implementation and on-going assessment will significantly reduce instances of this kind in the future.

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CHAPTER I

WORK OF THE COMMITTEE

The Attorney General and the Ministers of Education and Human Resources announced the establishment of the enquiry on May 14, 1986. The charge given was to:

General Terms of Reference

To review relevant information including available documentation, relating to the sexual abuse of children by employees in positions of trust who have had children under their care by reason of their employment and whose cases appear to be recent and relevant; and, following such review, to report fully on all pertinent matters to the Attorney General and the Ministers of Education and Social Services and Housing including the making of recommendations to them that are directed to the prevention of future such instances of this kind.

Specifics of Assignment

1. In addition to giving consideration to the factual background presently at hand, to make such investigations and to conduct such interviews as are deemed useful in reviewing and reporting on the assignment.

2. Such interviews may include, inter alia, appropriate persons from the Ministries of Health, Human Resources, Education and the Attorney General as well as from some school boards in the Province with a view to determining the effect of existing policies and actions taken by these bodies in the Noyes and other school district employee child abuse cases.

3. Consider all written communications sent in by members of the public.

4. Identify gaps and inconsistencies in existing legislation and policies that hinder identification and removal of child abusers from the school environment.

5. Review methods that will enable the school system to exclude child abusers from contact with school children.

6. Make recommendations to the three Ministers of Government for Changes to existing legislation, policies and procedures of

ministries of government, school boards and teachers, to ensure, insofar as is possible, that child abusers are eliminated from the public school system of the province and to prevent a repetition of the Noyes and other like cases.

Members of the Committee

The mandate was originally assigned to Barry Sullivan but, at Mr. Sullivan's request, Georgia Williams became a member of the committee and contributed equally throughout to both the review and recommendations.

Committee's Approach to Research

We were aware at the outset that a great deal of work had already been done on this and related topics. We wished to take advantage of existing research, surveys, briefs and submissions, and Commission reports to act as a base and sounding board for our ultimate recommendations.

Our recommendations are based upon our own research as well as a complete review of a large number of published sources in the field.

We first looked to the American experience. One can safely say if it has not been tried in California it has not been tried. Recognition of the problem in that jurisdiction began in the early 1960's and attempts at prevention have continued there without interruption. California today is touted as having the "granddaddy of screening laws". Most of the American research we reviewed considered both the national and the State experience in dealing with this problem. This material indicated the success, or lack thereof, with models which had been attempted. We were alert to assess the impact of legislative change. As legislative amendment is often seen as the panacea for societal malaise we wanted to know if the push, the urge to amend existing legislation would attain its expected results. In view of the strong position on issues of child abuse at all levels of government in the United States we thought it prudent to learn from their experience.

Secondly we looked homeward to our national experience. The Badgley and Fraser Commission Reports clearly set the tone, hopes and aspirations for all Canadians. Follow-up comes in the form of the federal government announcement, in June of 1986, outlining initiatives they are taking to meet the challenge Badgley laid at their door. In announcing their desire to move into the implementation stages of the recommendations of the

Badgley Commission, the Federal Government invited the Provinces to join the challenge.

We have contacted the National Clearinghouse on Family Violence to assist in our research. We are grateful to the Clearinghouse agency for providing some of the most useful research in our study.

We then turned to British Columbia. Both committee members were acutely aware of the very hard work and commitment of a number of individuals, organizations, community groups and government ministries who have been tackling this issue - albeit at times, isolated one from the other with slightly different terms of reference. Our intention was to collect their data, filter it against known experience and broaden its base to ensure that our recommendations, if implemented, would affect, positively, the largest number of professional and community groups who work with children. We see our recommendations as a base to grow from - to be the impetus for change - and to direct the development of a uniform comprehensive approach to dealing with child sexual abuse by school district employees in the Province of British Columbia.

We wish to thank the following persons, groups, and organizations for their kind assistance and cooperation:

- the staff members of the Ministry of Education, whose advice and suggestions were essential.
- the Superintendent of Child Welfare and members of his committee, whose work will be complementary to our own.
- the ongoing tireless work of the BCSTA Task Force
- the B.C. Teachers' Federation for sharing their Brief to Government on Child Abuse.
- all the School Boards who responded in writing to our request for yet more information and all of those Boards with whom we met personally.
- the private consultant to the Sechelt Board, Dr. Arthur Kratzman, for his confidence in us in the sharing of his research.
- those senior administrators and delegates within the Ministries of Health and the Attorney General for their cooperation, input and advice.
- the private organizations and parents who took the time to put their concerns and hopes in writing.

- the College of Physicians and Surgeons, the B.C. Medical Association and numerous private medical practitioners, who clearly want to be part of the team in attempting to stamp out child abuse.

- Mr. Jim Carter, Deputy Minister of Education and Mr. Ted Hughes, Deputy Attorney General, who came up with the idea and asked us to do the study.

Although the cooperation and assistance we have received from every source has been outstanding these dedicated individuals and groups should not be held responsible for the opinions contained in this report. The views and conclusions set forth in this study are solely those of the authors.

The Committee's Approach To Its Mandate

We have divided the spectrum of child sexual abuse by school district employees into three parts. Each of these parts has a different focus but each is directed towards the same goal, namely the elimination of this tragedy.

In our first area, primary prevention, we include educational progams for all children in the school system. These prevention programs are designed to ensure the safety and well being of all children.

In secondary prevention we consider issues of identification, reporting and intervention. In short, how do we detect and deal with sexual abusers once they are suspected of operating from trust positions within the school system?

In tertiary prevention we consider treatment approaches for both the students and offenders.

In conclusion we offer some general observations on the central message of our report and what is required to deal with this problem.

Throughout the formulation of our recommendations we were not influenced by cost factors. We do not believe that there are other alternatives available at lower cost; rather we have been guided by our mandate to recommend the best measures to prevent sexual abuse by those in trust positions regardless of cost.

We have found in our research that there are a few areas which require additional study beyond the time frame of our enquiry. An example would be the establishment of a central registry of child abuse. The whole subject of information being

stored on the identity of suspected sexual abusers of children has prompted a great deal of debate. It is clear that there could be substantial benefits fom such a registry but the implementation of procedural safeguards, the criteria for enrollment and the firm assurance that the entire concept would operate as it was intended all require further study. In short the idea has merit but much remains to be done. Another example is the multi-model treatment approach considered in Chapter 5.

In 1962, the American pediatrician Henry Kempe was one of the first people to draw public and private attention to the complex issues involved in child sexual abuse. He stressed the need for a team approach and the requirement that there be long term follow-up care of these children. In a 1978 lecture to the American Academy of Pediatrics the same author disagreed with the growing emphasis on family therapy and reunification and stated that the approach should always be "the best interests of the child".[1] We agree that in every instance the many disciplines who come together in the prevention, detection and treatment of child sexual abuse must be guided by one fixed overriding principle and that is the best interests of the child. Throughout our study we have been told by individuals that they were uncertain as to how to proceed in certain situations. If doubt arises we believe one should, notwithstanding any other consideration, always err on the side of protecting the child. In our view many uncertainties would disappear if this principle was constantly kept in mind.

Throughout our recommendations we have stressed the need for ongoing coordination, evaluation and accountability. We realize at present there is no vehicle to perform these tasks. It would be pointless to adopt a comprehensive program to eliminate sexual abuse and not, at the same time provide for the vehicle to implement and coordinate the plan which has been adopted. This vehicle, be it an individual or a committee, should have a broad outside and cross-ministerial representation and a mandate to provide the link with the federal government initiatives in the area. This body should develop pilot projects suitable for presentation to the federal government. This agency should not only oversee the implementation of the program which is adopted; it should also coordinate future efforts, develop close ties with all the disciplines involved and ensure accountability.

It is impossible, at times, to consider the sexual abuse of children by a specific group of people in isolation. Hence, if at times it appears as if our discussions or our recommendations extend beyond a consideration of the scope of our mandate it is because the sexual abuse of children by school

district employees in trust positions is but a highly specialized example of much larger problem.

Introductory Remarks

The sexual abuse of children by those in trust positions has attracted a great deal of public attention and comment. It is our opinion that this problem is underestimated both in terms of its occurrence and its effect on the children involved. The comments of the Badgley Commission merit repeating:

> "Persons who have been sexually abused as children and youths have told us of their anguish and sense of helplessness, feelings intensified by their not knowing how they might have sought appropriate help. Resulting from our work, we have been profoundly moved by their betrayed hopes and their suffering. Many of these victims have been scarred for life with uncertainty, fear and despair. They have asked clearly "Can you help?"[2] Canadians cannot evade this appeal nor think wishfully that the situation will somehow right itself without direct and constructive action being taken. Their experiences represent an intolerable situation. It is one which must not be allowed to continue.
>
> Child sexual abuse is a largely hidden yet pervasive tragedy that has damaged the lives of tens of thousands of Canadian children and youths. For most of them, their needs remain unexpressed and unmet. These silent victims - and there are substantial numbers of them - are often those in greatest need of care and help."[3]

In our view the comments of the Badgley Commission are apt, albeit on a smaller scale, to the sexual abuse of children by employees of school boards. It is important that as the Federal Government moves to implement some of the recommendations of the Badgley Commission, British Columbia and the rest of the provinces should be kept well informed so that the response to the problem remains coordinated and integrated. It is furthermore highly likely that the Federal Government will make available financial resources to fund pilot projects in the implementation stages of the recommendations. British Columbia

would be well advised to take advantage of such resources by having in place proposed projects which might attract these funds; to do this it is necessary to maintain an ongoing relationship with the Federal Government.

Throughout this report an attempt has been made to identify a particular problem and then make recommendations to solve that problem. In some cases the solution can be accomplished by a single change either in policy or legislation.In other areas, however, further work will have to be done to ensure that the changes suggested are coordinated and implemented by the Ministry and School Boards in the province.

During the course of this study we have reviewed many of the cases of sexual abuse which have occurred both inside and outside of the school setting. If there is one lesson to be learned from such a review it is that a coordinated and unified approach to the training, detection, reporting and treating of sexual abuse is essential. Sexual abuse, whether inside or outside of the school environment, can only be effectively dealt with through the efforts of many disciplines. It has been our observation that in recent years there have been numerous approaches to this problem by well-intentioned groups and individuals. The Inter-Ministry Handbook is a good example of an attempt to deal with this area in a systematic fashion. As we proceeded to talk to educators and school boards we found a glaring lack of awareness of this Handbook to the point where this source has very little practical value in dealing with the problem. It is our view that a primary cause of failure of past attempts to deal with the problems of sexual abuse has been the lack of a totally coordinated approach combined with established accountability and a procedure to assess and, if necessary, modify the aproach taken.

Throughout our study we have met with many people and groups who represent the full range of disciplines necessary to deal with the problem of sexual abuse. We have been struck by how totally dedicated and committed these people are, but also how ignorant they are as to how they interact with others and the services which are provided by others. It is our experience that sometimes it is not as important to introduce new procedures or policies as it is to ensure that everyone concerned is fully aware of what the prevailing policy is, what their responsibilities are and how the services available can be accessed and utilized. In short, awareness, education, coordination and acountability are essential if we are to seriously attack the problem of sexual abuse by employees of school boards in the province. It is unfortunately all too easy to pass legislation or proclaim procedures or policy and assume that the problem has been adequately dealt with. What is required is constant

monitoring to ensure that the programs which have been developed are being delivered in the manner contemplated with the results which were anticipated. Anything less will result in a series of piecemeal attempts to deal with a problem which can only be attacked on a unified basis. The result is a waste of valuable resources with outcomes which fall far short of expectations.

We have borne in mind throughout our study that the touching, hugging and consoling of children is very much a part of being a teacher. This is primarily true of those who teach younger students. In dealing with the subject of the sexual abuse of a child by a School Board employee the balance between that contact which is important and normal and that which is perverse and destructive must always be distinguished.

We have also considered throughout that the employees under review are entitled to full protection and appeals in the event that allegations of sexual misconduct are made against them. School Board employees may be harmed unreparably by unfounded allegations in this area and any system of detection must consider this fact.

In the field of sexual abuse a great deal of work has been done by many dedicated people. A great deal more remains to be done. Herein lies a challenge which we cannot fail to meet, for the elimination of the sexual abuse of children is a goal we simply must achieve.

CHAPTER II

SUMMARY OF RECOMMENDATIONS

A. Primary Prevention

1. That there should be, as part of the curriculum in every funded and partially funded school, a mandated prevention program in place in every school district in the province. These programs could be phased in over a short period but each school district would be responsible for notifying the Ministry as to the actual start date of their program and the type of program therefore selected. The school district should also collect the data necessary to evaluate the effectiveness of the program.

2. That there be established in the Ministry of Education a central clearing house for the further development, ongoing evaluation and distribution to school districts of prevention material and programs.

3. That this clearing house perform research based upon established criteria, on the effectiveness of the programs being offered. This centre should also act as an interface with the federal government on the implementation of the recently announced initiatives in this area.

4. That the prevention program selected by the individual school board be progressive to meet the age level of the children being taught and implemented at all levels of the school system, namely kindergarden, primary, intermediate and secondary. Although we suggest that the program selected be taught at all grade levels, that does not mean it should be taught in every grade. The amount of reinforcement necessary to maximize the benefits of any program is unknown. The number of grades selected should be studied and evaluated over time.

5. That the central clearing house in cooperation with school districts, should consider whether a theme of sex education or personal safety and life skills or a combination thereof is most appropriate, whether classroom teachers or outside counsellors should do the teaching, how to ensure that the teachers of the program are qualified, how the program will be totally integrated and follow a logical sequence from Grade K to 12, the advisability of teaching assertive behaviours to prevent sexual abuse as opposed to merely

appropriate responses, and that cultural, racial differences are considered and handicapped children are included.

6. In order to best ensure that the prevention programs which either have been or will be developed are available to every student, each independent or private school in the Province of British Columbia should be required to register annually with the Ministry of Education. In addition, the Minister of Education should be given the statutory authority to order inspections of such schools at any time.

7. That all prevention programs be offered to the non-funded independent schools in the province.

8. That the post-secondary institutions in the province, with Education Facilities, develop and implement courses on the prevention, detection, dynamics, treatment and responsibilities associated with the sexual abuse of children by those in trust positions.

9. That parents or guardians of young children should retain the right to exclude their child from any prevention program offered.

10. That the central clearing house evaluate and distribute prevention materials suitable to inform school administrators, trustees and other school district employees in trust positions with children in the methods of prevention, dynamics of sexual abuse, including indicators and their responsibilities in this area.

11. That effective in-service training programs should be developed and offered to teachers and administrators on the dynamics of sexual abuse, indicators and reporting protocols. The intent here is to train the trainers to prevent sexual abuse through educating those children who have not been abused and identifying the indicators in those children who have been. These same in-service programs should be offered to all teachers in independent schools as well.

12. That the appropriate government authorities and representatives of the school districts in the province enter into discussions to determine the additional costs of implementing the mandatory prevention programs and how such costs will be assumed.

13. That the Ministry of Education, School Boards, B.C.T.F. and any other unions or associations cooperate in developing and implementing programs designed to increase community

awareness of the dynamics of sexual abuse and how they are cooperating to achieve its elimination.

14. That there be established after appropriate review and consultation with the various government and non-government agencies an appropriate mechanism to coordinate the implementation, delivery and assessment of all services relating to the sexual abuse of children in the Province.

B. Secondary Prevention

I. Identification of Offender

i) Criminal Record Checks

1. That the Ministry of Education and School Boards prepare a list of jobs, positions or classifications which fall within their respective jurisdictions that involve working with children and issue a policy statement that henceforth all new applicants will be required to disclose their criminal history including pending charges and findings of guilt where discharges were imposed.

2. That the Ministry of Education and School Boards within their own respective jurisdictions require that the criminal records of applicants be obtained from the appropriate police agency. Each organization should also develop guidelines to ensure the confidentiality of such information.

3. An individual who has or seeks certification from the Ministry where he or she is compelled to consent to a criminal record search should have the right to receive a copy of any criminal record information received by the Ministry or Board.

4. The Ministry or Board should communicate any adverse decision based on criminal activity to the applicant, in writing, giving the reasons for the decision and setting out the provisions for an appeal.

5. An appeal process ought to be available to the applicant to challenge an adverse decision based upon criminal record information.

6. Criminal record checks be instituted by the Ministry of Education on all applicants prior to the grant of certification under Section 146 of the School Act.

7. That criminal records checks be instituted on new employees for teaching positions, by local School Boards.

8. That knowledge of the fact that criminal record checks is part of a hiring policy within the education system be incorporated into university undergraduate education calendars.

9. There should be an acknowledgement that background screening and criminal records checks are not a one-time operation but a continuing responsibility for educators and school districts.

10. That a uniform policy be established, in concert with the police, for distribution to all School Boards throughout the Province, regarding the procedure for obtaining criminal records. This procedure should be consistent with other government Ministry initiatives in this area.

11. That assistance be provided to administrators and School Boards in the form of established criteria and ongoing advice by police, prosecutors and the B.C.S.T.A. in determining the relevance of the criminal conduct reported and on what crimes pose potential threats to children.

12. That the presence of a criminal record, should not in itself bar an applicant from a job but that uniform guidelines be developed to assess the relevancy of past criminal conduct.

    The Honourable Jack Heinrich, Minister of Education in a letter dated November 19, 1984, we believe, is an appropriate but by no means exhaustive list from which the relevancy of an applicants criminal record might be determined:

    (a) The nature of the crime.

    (b) The time which has passed since the last conviction.

    (c) Any rehabilitative measures which have been taken by the applicant.

    (d) The applicants record since last conviction.

    (e) The degree of involvement with children in the position.

    We would add:

    (f) Any medical evidence available.

(g) Was any physical violence or threats used.

(h) The number of children, if any, involved in the previous offence.

(i) The relationship of the applicant to the victim(s).

ii) Reference Checks

1. That the Ministry of Education initiate discussions with or amongst the appropriate bodies, affiliations and unions to develop within their respective jurisdictions written uniform personnel polices that deal specifically with:

   - minimum standards of expected conduct for those working in trust positions with children.

   - enumeration of job classifications which attract the above standard of conduct.

   - personnel policies respecting the granting, suspension and removal of certification.

   - personnel policies respecting the hiring, transferfering, resignations, suspensions, dismissals and reinstatement of employees.

   - the assurance that all students in a University education faculty, and new and current teachers are aware of the expected code of conduct and the likely results of breaches of the standards.

   - that a training component be recognized as essential in assuring that all administrators and trustees are knowledgeable and informed on developing policy and procedures.

2. That the appropriate governing body ensure that all their employees or members in trust positions receive not only the text of the expected standards of conduct but a clear endorsation by the governing body.

3. That the B.C. Teachers Federation, in order to avoid any confusion, amend their Code of Ethics to include a prominent statement that they condemn the sexual abuse of students and they encourage their members to not only be vigilant in their search for indicators of abuse but to report any colleague whom they believe, upon reasonable grounds, to have sexually misconducted him or herself with a student.

4. That the B.C. Teachers Federation permit the internal investigation of complaints against their members, beyond the six month limitation period, if the complaint involves the sexual abuse of a student.

5. That the Ministry of Education and the B.C. Teachers Federation establish a policy by which they will share information on those in trust positions accused or suspected on reasonable grounds of sexually abusing students.

6. That an independent study be undertaken on the establishment of a College of Teachers which would be responsible for the certification, decertification and investigation of allegations of misconduct against teachers in the Province of British Columbia.

iii) Child Abuse Registry

1. In British Columbia, the Superintendent of Child Welfare and delegates of the Ministry of the Attorney General review the legal aspects concerning the entry of names, notification, expungement and exchange of information between provincial registers.

2. That a central source of pooled information for the Province rather than the existing inefficient and inaccurate classification system be contemplated as a better alternative to the existing system.

3. That discussion take place between the Ministries of Education and Social Services & Housing to establish procedures for accessing relevant information stored by the Ministry of Social Services & Housing, when the Ministry or School Boards are determining suitability for employment.

4. That procedures relating to the entry, expungement, and sharing of information be clearly dealt with before any Child Abuse Register is implemented.

II. Investigation

i) Reporting

1. That there be incorporated as amendments, to either the School Act or Regulations thereto, the following sections relating to the reporting of child abuse:

(i) a duty imposed on School Board employees to report information on child abuse,

(ii) a statement that a duty to report exists notwithstanding any other duty to any organization or the relationship to the alleged offender (i.e. a colleague),

(iii) that immunity from liability exists when the report is made in good faith and upon reasonable grounds,

(iv) that the identity of the informant shall not be revealed except in the course of judicial proceedings.

2. That section 22 of the Family and Child Services Act be amended to permit the sharing of information on child abuse cases on a 'need to know' basis.

3. That the definition of "abuse" in section 1 of the Family and Child Services Act incorporated in the term "in need of protection" in section 7 be defined with greater clarity on the issue of the sexual abuse of a child by an employee in a trust position.

4. That representatives of the Police, School Boards and government ministries undertake the development of standard reporting and investgating protocols for all areas of the Province.

5. That the standard protocols which are developed be delivered to all School Board employees in trust positions and Administrators and trustees by in-service programs and information circulars.

6. That the Inter-Ministry Handbook be revised and updated and widely distributed throughout the Province. School Boards should ensure that all employees are familiar with the provisions of this Handbook.

7. That the newly created position of 'Children's Officer' within the Ministry of Social Services and Housing have as part of its job description, functioning as a resource person for School Boards, Administrators and teachers.

8. That the B.C. Teachers Federation amend their Code of Ethics to reflect any future amendments to legislation on the duty to report.

9. That an examination of the extent of the jurisdiction of the Office of the Superintendent of Child Welfare be undertaken firstly to clarify in what circumstances, is a child in need

of protection in order to invoke the Superintendent's authority and secondly to delineate those circumstances in which the Superintendent has no authority to intervene.

ii) Intervention

1. That a standardized protocol be developed to assist and guide Superintendents in conducting investigations into the sexual abuse of children by employees in trust positions. This protocol should address inter alia:

   (i) the nature and extent of the investigation,

   (ii) the documenting of information and evidence obtained in the course of the investigation,

   (iii) the requirement of full and frank disclosure to the Board,

   (iv) the relationship of the investigations of the police, Ministry of Social Services and Housing and the Superintendent, all of which may be proceeding simultaneously.

2. That all parties who investigate allegations of sexual abuse by School Board employees establish uniform protocols to share information on an need to know basis.

3. That standardized practises be developed to ensure:

   (i) personnel files of all employees fully and adequately reflect the true reasons for resignation,

   (ii) resignation involving child sexual abuse allegations will be reported to the Ministry of Education in Victoria,

   (iii) that allegations of child sexual abuse not only be noted on personnel files but are transmitted if information is requested on the alleged offender by another district.

4. That Section 126 of the School Act be amended to mandate that full reasons for the resignation of an employee involving sexual abuse of a child be sent to the Minister such that a determination can be made if there is sufficient cause for decertification.

5. That a file on the case law on misconduct of teachers and Board employees be maintained for use by Administrators and School Boards when they are dealing with Section 122 of the School Act.

6. That Section 122(1)(a) of the School Act be amended to include an "and/or" option at the end of the section, to allow a Board to proceed under both sections simultaneously, to ensure that they deal with the issues of misconduct without having to await the outcome of the criminal proceeding.

7. That the seven day time frame in Section 122(2)(a) & (b) be amended and extended to 14 days to provide the Board a better opportunity to conduct a fuller investigation.

8. That section 122(2)(c) be repealed as it does not take into account the fact that even though a person may be acquitted in the criminal courts, his conduct may be cause for ongoing concern when working with children and this section prevents School Boards from undertaking such a review.

9. That formal recognition be made that the Privacy Act will not act as a deterrant in the useful sharing of information between Police agencies and those persons responsible for undertaking independent investigations; and that a uniform procedure will be developed for distribution to all detachments and School Boards.

10. Pursuant to Section 124 of the School Act, when dealing with Student Teachers, the need for the Ministry of Education, Universities and Boards to establish criteria and guidelines for receiving such students in the respective districts.

11. That Section 129 of the School Act be amended to eliminate any confusion arising as a result of the word "appeal" by stipulating the nature of this proceeding.

12. That the B.C. Teachers Federation, in conjunction with the Ministry of Education and representatives from the School Boards determine how information possessed by the Federation concerning the expulsion of a teacher from membership in the Federation for sexual misconduct will be shared.

13. That the granting of a certificate by the Ministry under Section 146 of the School Act adhere to standardized guidelines and criteria which should be incorporated into a Regulation to the School Act.

C. Tertiary Prevention

1. School Boards should specifically recognize that they have a responsibility in the area of treating students in their district who have been sexually assaulted by their employees. Some specific areas include:

   (i) Recognizing that a student who has been sexually abused by an employee may require a new school environment.

   (ii) Advising parents of sexually abused students what resources are available for treatment in the community.

   (iii) Informing themselves of the on-going treatment progress of the student to the end that they may assist if required.

   (iv) Establishing firm policies for dealing with the news media such that they event is not sensationalized. A calm reasoned approach is always the best method to reduce the trauma to the child(ren) involved.

2. That every employee in a trust position and each trustee of a school district become acquainted with the dynamics of the sexual abuse of children to the end that such understanding will assist in the treatment of such children.

3. That a Committee be struck to include representatives of the appropriate government ministries and the medical profession to consider the establishment of a multi-modal treatment program for sexual abusers in the Province of British Columbia. This same Committee should also consider the entire question of the duty of doctors to report disclosures of the sexual victimization of children and how, if at all, and under what circumstances this legal requirement should be modified.

4. That the provincial Corrections authorities explore options as to how a multi-faceted treatment program for child sexual offenders could be implemented in a provincial institution.

5. That the institutionalized and the out patient multi-faceted treatment programs be coordinated such that those offenders released on probation after serving a sentence may be required to continue their treatment on the outside.

6. The general education of physicians in the efficacious treatment of pedophilia and in the treatment of the children victims of sexual abuse should be increased. This should be done by including these topics in the Undergraduate Medical

School curriculum at U.B.C. and in the Postgraduate Education curriculum for psychiatric residents at U.B.C. and in Continuing Medical Education forums. Medical conferences and journals which consider these areas should be encouraged.

7. That the medical profession by and through its professional Association should be reminded of its legal duties to report incidents of sexual abuse of a child.

8. That the appropriate government ministries implement an on-call task force of people experienced in the disciplines required to effectively deal with a multi-abuse disclosure situation. The composition of this team and the authority of its coordinator should be as outlined in this report. Established criteria for the deployment of this team should be set down in a policy statement.

CHAPTER III

PRIMARY PREVENTION

A. Prevention Programs

It is clear that at the forefront of the prevention of child sexual abuse are effective educational programs which must be developed to inform students, teachers, administrators and trustees about the dynamics and risks involved, ways of obtaining assistance and the responsibilities of everyone concerned.

Any educational program which seeks to educate children on sexual abuse must have a sound rationale as to how it is structured. The content of any program must be assessed to evaluate its prevention capabilities. The appropriate length of the program should be considered in light of the perceived goal of either seeking to identify children being abused at the time the program is offered or preparing children to prevent abuse in the future. Current research suggests that children forget prevention knowledge over the months after training and an ideal training format would include periodic booster sessions to ensure children maintain whatever knowledge gains they make during the initial prevention training sessions. It is also important to consider the types of abuse covered, for some programs deal only with sexual abuse while others cover life skills and personal safety. All programs generally teach children to say "No" to abusive situations; however, they differ in the extent to which they teach actual assertive behaviours for saying "No."[1]

Current knowledge is unclear as to whether or not the occupation of the person presenting the educational program is significantly related to the effectiveness of the program. What is clear, however, is that some special groups of children, namely those who are in some way handicapped, will require trainers who have special expertise. It is important that there be adequate training for the professionals delivering the prevention program. The knowledge base of sexual abuse is rapidly expanding and it is essential that the trainers themselves have the current information about the sexual victimization of children.

There is an extensive array of materials which may be incorporated into any prevention program. To date there are no reliable studies on the effectiveness of the various prevention materials. It is also unclear whether the available prevention materials are superior to training delivered by a trained adult without materials. Indeed, the program offered by the King

County Rape Relief in Washington State uses no materials at all.

It would appear that most of the recently designed prevention programs have as their basis a theme of "personal safety" rather than "sex education".2 It is highly likely that such a focus would be more widely accepted in a school environment than a sex education format which evokes emotional responses in some parents.

While the development of prevention programs has been rapid, there has been little research analyzing the effects of these programs. Such research is necessary to ensure that the programs are achieving the purposes for which they were designed. In the meantime it is necessary to proceed with the caution which is prudent in utilizing any unproven intervention technique.

In order to effectively evaluate and disseminate materials for prevention programs a central clearing house is required. The function of such a centre would be to critically evaluate and assess the growing body of materials being produced. Such a centre would set standards depending upon the objectives sought and would conduct research into the effects of the materials and make the changes necessary to ensure maximum benefits. Such a centre would ensure that the program content was varied to meet the needs of cultural and racial minorities. This location would be the resource point for the entire educational system.

On June 10, 1986, the federal Minister of Health and Welfare announced the appointment of a Special Advisor on Child Sexual Abuse to coordinate activities at that level. In addition to the establishment of this office, the Minister also announced that the federal government would undertake a variety of social and educational measures. It was anticipated that these initiatives would make use of established mechanisms in the provinces for the delivery of services. The Minister affirmed at that time the commitment of the federal government to cooperate with all levels of government and the private sector and added that the protection of young people is a priority that calls for the strongest measures and for actions by all levels of governments and the private sector. He went on to say, "This course has the support of all Canadians, who have stated clearly that child sexual abuse is unacceptable in Canada and will not be tolerated".3

A central clearing house for material set up as a part of the Ministry of Education would be in an ideal position to link up with the federal initiatives in this area. The sexual victimization of children does not recognize geographical

boundaries and a central location which stores and distributes the most current material available on a national scale, is highly desirable. The research and assessment components of any prevention program would be greatly assisted if data could be obtained from a national source as well as local sources. Finally, it is essential that there be cooperation and coordination of initiatives at all levels of government who are active in the campaign against the sexual abuse of children.

Once it is accepted that effective prevention programs are essential we must consider whether such a policy should be mandated and what grade levels should be included. In our view the Ministry, after consultation, should mandate that some prevention program be in place for all kindergarden, primary, intermediate and secondary students in the province. This directive could, again in consultation with school districts, be phased in over a short period and should permit parents to exclude their children should they object to the school teaching this type of program. The Ministry should consider the appropriate theme of the program, which may be varied as the students mature. It is unnecessary to offer prevention programs in every school grade; however, the appropriate number of booster sessions to ensure the students maintain the knowledge gains of the program should be studied.

In secondary schools sexual abuse, while remaining a major concern, takes on a different complexion than it does in the elementary schools. The abuse at this level is often not that perpetrated by the stereotypical pedophile or child molester but rather by an employee in a trust position who develops relationships with students similar to dating relationships. These relationships often lead to serious abuse and can be very damaging emotionally and psychologically yet they have not, to date, attracted the same degree of attention. This age group should be considered in the development and implementation of any prevention program.

There are some students in the Province who attend schools over which the Ministry has little knowledge, provide no financial assistance, and exercise little or no control over the curriculum. Even if prevention programs were mandated for the funded or partially funded schools there would be students attending these independent schools who would be beyond the reach of such programs. In order to achieve the total elimination of the sexual abuse of students, efforts must be made to encourage all schools, public, private and independent, to participate in implementing prevention programs.

Some people may ask why schools and educators should be involved in the prevention, identification and treatment of

student sexual abuse. The answer is that such abuse is a part of the everyday reality of working with children. Educators are in a unique position to help these children, their families and outside agencies. Current research indicates that more than half of the abused children in the United States are of school age and there is no reason to suspect that the Canadian experience is different. Sexual abuse of pre-schoolers may only become known after the child enters school. Schools are the only places where children are seen over extended periods of time by professionals trained to observe their appearance and behaviour. Teachers have a unique opportunity to observe the behaviours of children and can detect the unusual.

Studies show that students who have been sexually abused often have learning problems and underachieve in academic performance. Educators who assist in the detection and treatment of children who have been sexually victimized will often enhance their learning performance as a result.

Sexual abuse of students is a community problem which must involve community resources with the school at the focal point. Educators have a keen sense of professional responsibility to the children in their care. They are concerned about the health, safety and happiness of their students. Educators want to be in the forefront of the prevention of child sexual abuse and to utilize the schools for this purpose. Educators should always use as their guide that whenever they are in doubt they should take the action, adopt the policy or follow the course which best ensures that students are protected from the sexually abusive behaviour of their colleagues.

B. History of Prevention Programs in British Columbia

In September, 1985, Mr. Wayne Desharnais, Executive Director, Division of Special Education, in his brief "Prevention of Child Abuse", encouraged school districts to develop and implement prevention programs.4

In April, 1986, in a report prepared for the B.C. School Trustees' Association, V.C. Collier stated that a survey of fifty-six school districts in the Province revealed that the majority felt that the "most important task to be completed was an improvement of prevention techniques for children."5

In June, 1986, in Ministry Information Circular Number 168 entitled "Sexual Abuse Preventions Materials"[6] there was information on the C.A.R.E. Kit (Child Abuse Research and Prevention) and "Feeling Yes Feeling No" a film by the National Film Board. This information was sent to all adminstrators,

faculties of education, public, independent and Indian Day Schools, B.C.S.T.A., B.C.T.F. and F.I.S.A.. This Ministry of Education Circular reviews both prevention programs, recommends ages and grade levels for each, considers the in-service component, cost and availability of each program. In the circular there is an appendix entitled "Legal Issues, Obligations and Concerns Related to Implementation of Sexual Abuse Prevention Programs."[7] In this appendix there are a series of helpful suggestions to school districts who are considering implementing a program and the reader is referred to the detailed information on reporting responsibilities outlined in the Ministry Child Abuse Handbook; School Policy Circular #23 (85.09.05)[8] "The Investigation of the Physical or Sexual Abuse of Children in Schools"; and a pamphlet from the Queens Printer called "Protecting Our Children."

C. Situation at Present Regarding Prevention Programs

We have reviewed our own research data and the statistical material provided by the B.C.S.T.A. in an attempt to ascertain the number of school boards in the province who either have policies regarding implementation or have instituted prevention programs in their schools. We have been unable to determine with confidence exactly how many districts have programs in place, the type and quality of these programs, the extent to which each program meets the established policy (if any) of the district, the percentage of schools in the district which have implemented the program adopted, the efforts (if any) to analyze the effectiveness of the program selected, and the effectiveness of the in-service component (if any) of the program. In short the situation at present is marked with uncertainty and a total absence of coordination. This state of affairs is hopeless when it comes to attempting to gather research data or assess the quality of the programs being offered. More importantly it leaves us with an impression that there are substantial numbers of students in the province who are not receiving prevention programs.

We therefore recommend:

Recommendations:

1. That there should be, as part of the curriculum in every funded and partially funded school, a mandated prevention program in place in every school district in the province. These programs could be phased in over a short period but each school district would be responsible for notifying the Ministry as to the actual start date of their program and the type of program therefore selected. The school district

should also collect the data necessary to evaluate the effectiveness of the program.

2. That there be established in the Ministry of Education a central clearing house for the further development, ongoing evaluation and distribution to school districts of prevention material and programs.

3. That this clearing house perform research based upon established criteria, on the effectiveness of the programs being offered. This centre should also act as an interface with the federal government on the implementation of the recently announced initiatives in this area.

4. That the prevention program selected by the individual school board be progressive to meet the age level of the children being taught and implemented at all levels of the school system, namely kindergarden, primary, intermediate and secondary. Although we suggest that the program selected be taught at all grade levels, that does not mean it should be taught in every grade. The amount of reinforcement necessary to maximize the benefits of any program is unknown. The number of grades selected should be studied and evaluated over time.

5. That the central clearing house in cooperation with school districts, should consider whether a theme of sex education or personal safety and life skills or a combination thereof is most appropriate, whether classroom teachers or outside counsellors should do the teaching, how to ensure that the teachers of the program are qualified, how the program will be totally integrated and follow a logical sequence from Grade K to 12, the advisability of teaching assertive behaviours to prevent sexual abuse as opposed to merely appropriate responses, and that cultural, racial differences are considered and handicapped children are included.

6. In order to best ensure that the prevention programs which either have been or will be developed are available to every student, each independent or private school in the Province of British Columbia should be required to register annually with the Ministry of Education. In addition, the Minister of Education should be given the statutory authority to order inspections of such schools at any time.

7. That all prevention programs be offered to the non-funded independent schools in the province.

8. That the post-secondary institutions in the province, with Education Facilities, develop and implement courses on the

prevention, detection, dynamics, treatment and responsibilities associated with the sexual abuse of children by those in trust positions.

9. That parents or guardians of young children should retain the right to exclude their child from any prevention program offered.

10. That the central clearing house evaluate and distribute prevention materials suitable to inform school administrators, trustees and other school district employees in trust positions with children in the methods of prevention, dynamics of sexual abuse, including indicators and their responsibilities in this area.

11. That effective in-service training programs should be developed and offered to teachers and administrators on the dynamics of sexual abuse, indicators and reporting protocols. The intent here is to train the trainers to prevent sexual abuse through educating those children who have not been abused and identifying the indicators in those children who have been. These same in-service programs should be offered to all teachers in independent schools as well.

12. That the appropriate government authorities and representatives of the school districts in the province enter into discussions to determine the additional costs of implementing the mandatory prevention programs and how such costs will be assumed.

13. That the Ministry of Education, School Boards, B.C.T.F. and any other unions or associations cooperate in developing and implementing programs designed to increase community awareness of the dynamics of sexual abuse and how they are cooperating to achieve its elimination.

14. That there be established after appropriate review and consultation with the various government and non-government agencies an appropriate mechanism to coordinate the implementation, delivery and assessment of all services relating to the sexual abuse of children in the Province.

CHAPTER IV

SECONDARY PREVENTION

IDENTIFICATION & INVESTIGATION

I. Identification of The Offender

Screening

(i) Criminal Record Check

The recent public exposure of a few teachers has revealed the highly destructive nature of their sexual activities with students. These revelations have attracted widespread media attention and public discussions. While the number of offenders has been small the damage has been great. It would moreover appear that a trend of increasing disclosure of sexual abuse is developing.

Pedophiles and child molesters gravitate to employment situations where the work involves the care, treatment, transportation, supervision or entertainment of children. The education field is a ready target for such persons. Consequently educators and law and policy makers are anxious to ensure that it is very difficult for such persons to gain entry into the profession of teaching. If such persons are in the profession already they must be identified and removed.

Research indicates that the Canadian and British Columbia experience parallels that manifest in the United States on this issue. In terms of enacting legislation and policy to address the various dynamics of child abuse, the United States has, at this time, had the benefit of some ten to fifteen years experience that we as Canadians can benefit from. In 1984 alone, children's issues, especially child abuse prevention and treatment, resulted in the passing of some six hundred new laws on children and youth, this according to the National Conference of State Legislators.[1]

A report by the Special Projects Unit of Capitol Publications, the leading American education newsletter publisher, sets out the roles of educators in the area of child sexual abuse as follows:

"- making sure school personnel are not child abusers,

- reporting abuse wherever it occurs, and

- preventing and dealing with child abuse through the curriculum and special programs."[2]

These three issues mirror the mandate of our enquiry. At both the Federal and the State levels in the United States laws and policies have been enacted to deal with the need for effective screening, hiring and prevention programs. Some states have instituted criminal record checks on prospective employees, and extensive personal and professional employment reference checks for applicants seeking entry into the educational field.

In practice, however, the American experience shows that the laws which have been passed do not turn up the most likely abusers. In addition, the screening process can become cumbersome, costly and potentially an invasion of privacy.

Some of the pitfalls experienced by the States who have passed screening laws include the following:

- in California, which has prohibited those with criminal records from working in child care since January of 1983, and in New York City since 1984, studies show that only 1% of those screened have records of crimes that would make them potentially dangerous around children....

- states can get into trouble by making their laws too narrow or too broad

- problems arose in determining if the criminal record check dealt with only full-time employees or part-time, substitute teachers, consultants, teachers in training,...

- some laws provide for a fingerprint check using FBI files, who pays this cost, how many other laws must be changed to allow the prints to go to the FBI?

- once the FBI send the prints back to a state, who gets to see them and make a hiring decision, who decides what crimes are relevant to deciding an applicant is a potential threat....

- it is not a fast process to make criminal records checks. A substitute teacher might be gone before the check returns.

- if the state also requires employment history, does that mean a check through the state child abuse registries. Such registries weren't designed for that function and States differ widely on how long listings are kept and how a person gets listed. California, which has the most advanced screening

  laws has taken fifteen years of trial and error to refine their legislation and policies to its present form. Along the way there were many bitter lessons which were learned and corrected.

British Columbia Initiatives on Criminal Record Checks

In reviewing existing British Columbia policy we found the following:

In August, 1984, Ministry of Education represenatives in concert with the BC Teacher's Federation and Attorney General staff, in a submission to a Deputy Minister's meeting, proposed that there be "established a procedure to protect children in the public school system by ensuring that all applicants for teaching certificates, either from our teacher training institutions or from other provinces or countries have not been convicted of a criminal offence which suggests their unsuitability for work with children."3

They further suggested that:

"The requirement that each applicant for a teaching certificate answer the following question:

Have you ever been convicted of a criminal offence" to be followed by a warning. "A false report is an offence which, when discovered, may lead to a person's loss of employment and the right to teach anywhere".

If you have, please provide particulars on a separate sheet and place the sheet in an envelope marked 'confidential' to accompany this application. The possession of such a record will not automatically prevent you from obtaining a certificate."4

Further recommendations on this option included the provision of an appeal process and inclusion of this policy into the Education Faculty calendar of each university to ensure student teachers were aware, in advance, that such screening would be undertaken when applying for certification.

In November, 1984, The Honourable Minister of Education, Mr. Jack Heinrich, issued a policy directive to all

School Board Chairmen. The Minister expressed agreement with findings in the Federal Commission on Child Abuse - the Badgley Report, which emphasized that more ought to be done to minimize the danger to children in our schools. He suggested one way to minimize this danger was to institute criminal records checks and offered a procedure to assist local boards in instituting such a policy. He further indicated that in early 1985, those applying for certification from the Ministry would need to prove more rigourously than in the past that they are "fit and proper persons to be granted a certificate"[5] pursuant to Section 146 of the School Act.

The BC School Trustee's Association struck a Task Force in 1985 on Child Abuse because of their grave concerns. As part of it's study the enquiry sought to determine what policies and procedures School Boards had in place throughout the province on hiring practises. As part of its study the Task Force requested that a survey be undertaken. This survey revealed the following:

"The survey asked that respondents describe the measures taken by their district to screen new employees for child abuse. Twenty-eight answered this question. The responses fell uniformly into three categories with some using more than one of these measures.

(1) Either in the written application or during the interview, or both, the prospective employees were questioned directly as to whether they have a criminal record or have had charges laid against them. Sixteen school districts used this measure to protect against the transfer of suspected offenders into their districts.

(2) Fourteen districts checked references and/or talked to previous employees. Six districts used both methods to protect against unwanted transfers.

(3) Although many questioned the prospective employees regarding possible previous offences, only six stated that they conducted a police check, a criminal record search, and some or all of their new employees. Two districts used all three methods."[6]

Our review suggests that at present, most school boards in the Province support the idea that a criminal record check for new applicants for employment is desirable but they are unsure as to how to implement this policy.

After a full review of the published literature on the subject which included an examination of the efforts in this area by the Ministry of Human Resources (now the Ministry of Social

Services and Housing) and the brief on the topic published by the B.C. Civil Liberties Associations we recommend the following:

Recommendations

1. That the Ministry of Education and School Boards prepare a list of jobs, positions or classifications which fall within their respective jurisdictions that involve working with children and issue a policy statement that henceforth all new applicants will be required to disclose their criminal history including pending charges and findings of guilt where discharges were imposed.

2. That the Ministry of Education and School Boards within their own respective jurisdictions require that the criminal records of applicants be obtained from the appropriate police agency. Each organization should also develop guidelines to ensure the confidentiality of such information.

3. An individual who has or seeks certification from the Ministry where he or she is compelled to consent to a criminal record search should have the right to receive a copy of any criminal record information received by the Ministry or Board.

4. The Ministry or Board should communicate any adverse decision based on criminal activity to the applicant, in writing, giving the reasons for the decision and setting out the provisions for an appeal.

5. An appeal process ought to be available to the applicant to challenge an adverse decision based upon criminal record information.

6. Criminal record checks be instituted by the Ministry of Education on all applicants prior to the grant of certification under Section 146 of the School Act.

7. That criminal records checks be instituted on new employees for teaching positions, by local School Boards.

8. That knowledge of the fact that criminal record checks is part of a hiring policy within the education system be incorporated into university undergraduate education calendars.

9. There should be an acknowledgement that background screening and criminal records checks are not a one-time operation but a continuing responsibility for educators and school districts.

10. That a uniform policy be established, in concert with the police, for distribution to all School Boards throughout the Province, regarding the procedure for obtaining criminal records. This procedure should be consistent with other government Ministry initiatives in this area.

11. That assistance be provided to administrators and School Boards in the form of established criteria and ongoing advice by police, prosecutors and the B.C.S.T.A. in determining the relevance of the criminal conduct reported and on what crimes pose potential threats to children.

12. That the presence of a criminal record, should not in itself bar an applicant from a job but that uniform guidelines be developed to assess the relevancy of past criminal conduct.

The Honourable Jack Heinrich, Minister of Education in a letter dated November 19, 1984, we believe, is an appropriate but by no means exhaustive list from which the relevancy of an applicants criminal record might be determined:

(a) The nature of the crime.

(b) The time which has passed since the last conviction.

(c) Any rehabilitative measures which have been taken by the applicant.

(d) The applicants record since last conviction.

(e) The degree of involvement with children in the position.

We would add:

(f) Any medical evidence available.

(g) Was any physical violence or threats used.

(h) The number of children, if any, involved in the previous offence.

(i) The relationship of the applicant to the victim(s).

(ii) Reference Checks

In view of the small percentage of offenders caught by criminal records checks, not to mention the substantial timing, technical and due process problems associated with the implementation of such a procedure, the requirement that there be comprehensive systematic reference checks becomes abundantly clear.

Section 146 of the School Act requires that persons applying for teaching certificates in this province furnish the Minister with proof that they are of good moral character and fit and proper persons to teach. There are no enunceated procedures at the Ministry level to assist the staff member assigned this duty. The test could be rigorous or minimal depending on the encumbent. Once a person receives his or her teaching certificate he is ready to seek employment. The fact is that, at present, beyond a review of academic qualifications, there are no other enquiries conducted by the Ministry to fulfill their responsibilities under section 146 of the School Act.

What criteria do boards have in place to assist in hiring employees, whether they be teachers or bus drivers? Our enquiry, supported by recent local research, suggests that there is no uniform policy or procedure on hiring. What one district has in place may have little or no similarity to that of its neighbour district. Even written procedures, in cur experience, do not ensure compliance. Are personal references requested, are they submitted in writing, are they pursued? Are employment references requested, are they verbal or written, is a complete employment history taken, do gaps in employment history require explanation? What about teacher transfers, both within and without the province, teacher resignations and re-instatements - why did they resign and why were they re-instated? The answers to these, and other similar questions, are not always known because the questions are not always asked.

Minimum Standards of Conduct

A more thorny problem is how is one to assess the content of information received, if in fact, thorough reference checks were conducted. There is no minimum standard of conduct expected from people in trust positions within the education system that is articulated with sufficient clarity to be a universal guide. Assessments, relative to suitability, may satisfy different criteria at the Ministry level than at the local board level and differ even amongst the board members and Superintendents of Districts themselves.

Dr. Arthur Kratzman, a consultant to the Sunshine Coast School Board, suggested the following as a guiding imperative:

"Persons in public trust, all elected and appointed personnel of a school district should continuously set an exemplary ethical and moral tone in the delivery of educational services. While the definition of morality is tempered by the cultural circumstances of the period of time under review, certain ethical imperatives remain constant."[7]

What are these ethical imperatives? The only standards committed to writing are reflected in the BC Teacher's Federation Code of Ethics as follows:

"The Code of Ethics articulates those general rules of conduct particular to the teaching profession in it's obligation to provide a high standard of service.

(1) The teacher speaks and acts toward pupils with respect and dignity, and deals judiciously with them, mindful of their individual rights and sensibilities.

(2) The teacher respects the confidential nature of the information concerning pupils and and may give it only to authorized persons or agencies directly concerned with their welfare.

(3) The teacher recognizes that a priviledged relationship with pupils exists and refrains from exploiting that relationship for private advantage.

(4) The teacher is willing to review with colleagues, students and their parents the quality of service rendered by the teacher and the practice employed in discharging professional duties.

(5) The teacher directs any criticism of the teaching performance and related duties of a colleague to that colleague and only then, after informing the colleague of the intent to do so, may direct in confidence the criticism to appropriate officials who are in a position to offer advice and assistance.

(6) The teacher acknowledges the authority and responsibilities of the professional organization.

(7) The teacher adheres to collective agreements endorsed by the professional organization.

(8) The teacher does not apply for or accept a position arising from an unjust dismissal or unresolved dispute.

(9) The teacher, as an individual, or as a member of a group of teachers, does not make unauthorized representations to outside bodies in the name of the federation or it's local associations."[8]

A footnote was added to the British Columbia Teachers Federation Code of Ethics in 1985. It reads **"Note: It shall not be considered a breach of Clause 5 of the Code of Ethics to report to the Ministry of Human Resources reasonable grounds for suspecting child abuse."**[9]

The first four clauses deal with what one might expect to find in a Code of Ethics, that is the exemplary ethical and morale tone to be set in the delivery of educational services. Clauses 6 through 9, however, clearly deal with the teachers relationship with their federation.

On it's face, Clauses 1 through 4 of the Code of Ethics, appear to delineate more than a minimum standard expected of teachers. Why then, do sexual molesters continue in the teaching profession undetected and even when detected often not reported? It obviously takes much more than the written word to motivate persons to take action.

Further, as suitability and good moral character are not necessarily static characteristics, there is no body or process to effectively supervise, assess and discipline when necessary, those members or employees who stray or breach minimum standards of expected conduct which fall short of criminal behaviour.

Research compiled in 1985 and 1986 for a doctoral dissertation, addressed this very issue. Questions which were asked of B.C. teachers by this study included amongst others; What in their view amounted to appropriate or inappropriate conduct? The conclusions under this section are reported as follows:

"1. Ethics Section: Teachers are familiar with a professional Code of Ethics related to sexual contact between teachers and students. Teachers seem to believe that sexual contact wih students is wrong, that the contact is clearly damaging to students, and that the contact is not a positive experience for the students. Even under circumstances where the students consent, cooperate, are seductive, and the parents of the sudent give consent, teachers appear to believe that for a teacher to engage in a sexual relationship with a student is wrong. However, on all items in the ethics section, teachers rate sexual contacts with adolescents with a lower score than they do children. The lower score indicates to this researcher

that the teachers who responded to this questionnaire see age of the student as a mitigating factor in the ethical considerations of engaging in sexual contacts with students. If this age factor is true, then teachers are not totally knowledgeable of the ethics involved in professional relationship. Therefore, it is possible that teachers may not report a sexual relationship between a teacher and an adolescent student if there is not a strong feeling that sexual relationships between professionals and students of any age are unethical."[10]

At the present time the Minister of Education and the Lieutenant Governor in Council under the authority of the School Act grants and removes the licence to teach. However, it is the local School Board, the encumbent's immediate employer who has the authority to suspend or dismiss teachers who misconduct themselves. The division of responsibility between the Ministry and School Boards in the employer/employee relationship, is far from clear. It becomes even less clear in smaller districts where Boards do not have available to them personnel branches to deal with labour relations issues, as do boards in the larger metropolitan areas. A number of smaller Boards are looking for guidance and leadership in this complex area. They are asking for uniform developed personnel procedures to address the issues of hiring, suspension, dismissal and standards of conduct.

What role does the B.C. Teacher's Federation play in the employee/employer relationship? Section 140 of the School Act stipluates that membership in the Federation is a condition of employment as a school teacher in a B.C. public school. Section 142 of the School Act authorizes the Federation to suspend or expel a teacher from membership. For what reasons is a teacher likely to be disciplined by the Federation? A member can be investigated for breaches of the Code of Ethics or for conduct harmful or prejudicial to the Federation. If a teacher is dismissed from the Federation for a breach of the Code of Ethics, it is unclear what relationship the Federation has with the Board in these circumstances, what information they share with either the Board or the Ministry, whether or not they, as a professional body recommend decertification? It is our understanding that there has not been an instance of the Federation recommending to the Ministry decertification on the basis that a member no longer is a fit and proper person to be teaching within this province.

The six month limitation period which currently exists for formally filing a complaint against a member under the B.C.T.F. Code of Ethics should be reviewed. Very few persons are aware of this provision and the time limitations could easily expire before a person became aware of the procedure. In addition, victims are often most reluctant to disclose, and their

willingness to come forward does not accord neatly with time frames. The footnote to Clause 5 outlined above does not adequately address the issue for a teacher who may want to report on a colleague or lay a formal complaint. The footnote permits the teacher to report a colleague to the Ministry of Social Services and Housing but only to the Federation after complying with the other provisions in the Code of Ethics.

In our opinion merely because a six month period has expired does not excuse the misconduct of a teacher towards his students, particularly where the violation is tantamount to gross misconduct and/or criminal activity. The Federation appears not to have taken a pro-active role in establishing and ensuring high standards. In fairness, no part of the system has taken the lead in this area. Problem teachers are sometimes quietly nudged out the district, with little or no paper trail to account for the reasons for their leaving. Responsibility and accountability have, until very recently, often been distant and dim notions when dealing with professional misconduct.

We have attempted to determine if school teachers and other employees in trust positions could be disciplined by internal bodies similar to the medical and legal professions? In our view, and for a wide variety of reasons, the model in place for lawyers and doctors is inappropriate for teachers, however, an independent body to certify, decertify and discipline might have sufficient merit to warrant further study.

Dr. Kratzman, in his study, offered what we adopt as an acceptable minimum standard of conduct to be expected of teachers and administrators when dealing with the issue of the sexual abuse of students. He writes that one of the ethical imperatives that remain constant is:

"That no educator should wittingly engage in any action, verbally or non-verbally, which has sexual overtones and which would offend or abuse any student with whom he or she relates in the conduct of curricular, extra-curricular, or other school related activities. Professional propriety also demands that, regardless of the age of the persons involved or the motivating circumstances, employees not engage in sexually oriented activities with students with whom they will have a continuing professional experience."[11]

In view of all the above, we recommend the following:

Recommendations:

(1) That the Ministry of Education initiate discussions with or amongst the appropriate bodies, affiliations and unions

to develop within their respective jurisdictions written uniform personnel polices that deal specifically with:

- minimum standards of expected conduct for those working in trust positions with children.

- enumeration of job classifications which attract the above standard of conduct.

- personnel policies respecting the granting, suspension and removal of certification.

- personnel policies respecting the hiring, transferfering, resignations, suspensions, dismissals and reinstatement of employees.

- the assurance that all students in a University education faculty, and new and current teachers are aware of the expected code of conduct and the likely results of breaches of the standards.

- that a training component be recognized as essential in assuring that all administrators and trustees are knowledgeable and informed on developing policy and procedures.

(2) That the appropriate governing body ensure that all their employees or members in trust positions receive not only the text of the expected standards of conduct but a clear endorsation by the governing body.

(3) That the B.C. Teachers Federation, in order to avoid any confusion, amend their Code of Ethics to include a prominent statement that they condemn the sexual abuse of students and they encourage their members to not only be vigilant in their search for indicators of abuse but to report any colleague whom they believe, upon reasonable grounds, to have sexually misconducted him or herself with a student.

(4) That the B.C. Teachers Federation permit the internal investigation of complaints against their members, beyond the six month limitation period, if the complaint involves the sexual abuse of a student.

(5) That the Ministry of Education and the B.C. Teachers Federation establish a policy by which they will share information on those in trust positions accused or suspected on reasonable grounds of sexually abusing students.

(6) That an independent study be undertaken on the establishment of a College of Teachers which would be responsible for the certification, decertification and investigation of allegations of misconduct against teachers in the Province of British Columbia.

(iii) Central Child Abuse Registry

At the heart of the debate on a central child abuse registry is the criteria necessary to register an alleged or suspected sexual abuser.

A Divisional Court decision in Ontario has offered a bottom line test when reviewing the Ontario Child Welfare Act dealing with their central registry.

"The principle issue before the Director on a s. 52(14) Child Welfare Act Hearing is whether the information in the register with respect to a registered person should or should not be in the register. He must decide on the evidence whether there is a sufficient basis for the allegation of child abuse and the identification of the alleged abuser. Once a registration is challenged the onus is on the Children's Aid Society, which by reporting information to the Director purports to have verified it, to uphold the registration and that onus remains with the society throughout the proceedings. The Director's determination must be made on the totality of the evidence adduced before him. Having regard to the purpose and object of the registry and the social policy underlying the Act, the burden of proof, in my view, should not be too onerous. In establishing a central child abuse registry and providing for notice and expungement proceedings, the legislature ought, on the one hand, to protect the civil rights of individuals and, on the other, to protect and safeguard children in the province from abuse. The nature of the information entered is limited and is confidential save as is specifically provided in the Act. It is recognized that the register is an important monitoring device and provides invaluable assistance to those responsible for dealing with the difficult and highly emotional problems relating to child abuse. To permit the registry to achieve its purposes, entries should not be limited to cases in which abuse has been established by the standards of proof applicable to criminal or civil actions. In my view, the interests concerned and the public interest will be served if the burden of proof in s. 52(14) Child Welfare Act hearings is satisfied by credible evidence supporting the information in the register. If credible evidence is adduced it remains for the Director to determine in light of the circumstances of the request before him whether the information

should remain in the register. In the absence of credible evidence, the name must be expunged."*[12]

Another central question involves who is to have access to the stored information. The function of such a registry is to act as a monitoring device. However, because of the nature of the information stored, access is sought by many ministries and agencies. In this manner, information which was designed to be confidential may, in practice, bear little resemblance to the stated intent.

In the screening process, employers, and in our case School Boards, will be expected to be diligent in their checking of personal and professional references. Accessing relevant information in child welfare files no doubt will be sought and co-operation expected by the employers. To date there are no existing protocols to assist in this sharing of information and we feel that without a legislative amendment to the Family & Child Services Act, co-operation on the development of such policies will be hampered.

The Child Welfare system in B.C. at the moment only registers a family's name if a service has been provided. However third party information and allegations are not registered. This is a significiant move away from the procedure initiated in 1984 in which there was an acknowledged Child Abuse Registry. Then the name of the alleged victim was registered and the case identified as unfounded, founded and unsubstantiated. Between June 1984 and the present, all unfounded complaints have been expunged. The move away from using the Register established in 1984 was, in large part, as a result of a legal challenge brought forward by an alleged offender. The current status of recording information and data retrieval is clearly insufficient to provide any degree of reliability to assist in determining the suitability of a prospective School Board employee.

In considering child sexual abuse registers the Badgley report stated:

- a sizable proportion of cases of child sexual abuse known to the police, physicians and child protection workers was not reported to the Child Abuse Registers.

- reports to registers had only been made in one in three cases of previous instances of child sexual abuse of cases currently open.

- proportionately more minor than serious sexual offences were reported.

- child protection workers had consulted registers in relation to only one in five cases which were opened.

- procedures relating to the exchange of information between provinces were inconsistant and lacked formal structure.

- in view of the above, the utility of their functions appears also to be severely limited as case catalogues, research aids or assessment tools.[13]

As a result we recommend:

(1) In British Columbia, the Superintendent of Child Welfare and delegates of the Ministry of the Attorney General review the legal aspects concerning the entry of names, notification, expungement and exchange of information between provincial registers.

(2) That a central source of pooled information for the Province rather than the existing inefficient and inaccurate classification system be contemplated as a better alternative to the existing system.

(3) That discussion take place between the Ministries of Education and Social Services & Housing to establish procedures for accessing relevant information stored by the Ministry of Social Services & Housing, when the Ministry or School Boards are determining suitability for employment.

(4) That procedures relating to the entry, expungement, and sharing of information be clearly dealt with before any Child Abuse Register is implemented.

II. Investigations

(i) Reporting

Identification of sexually abused children is an essential step in the protection of them. An efficient, accurate reporting system is the next step in the continuum. Two vital questions to be asked are:

Who are the persons responsible for supplying the information that a child has been sexually abused?

and

What is to be reported and to whom are they to report?

"Unlike his relationship with other professionals, a child's relationship with his teacher is not subject to the whim of his parents. Children are required by law to attend school but are not generally required to visit medical, dental, psychological or other professional bodies. The opportunity for the discovery of abuse is thus greatly enhanced in the school setting and the teacher is the most likely to discover it. The fact that teachers have contact with children at a relatively early age enables them to facilitate and contribute to early detection of the problem.

"A teacher's discovery and report of abuse has other advantages inherent to the public school system. The teacher can serve as a link between the child, his family and those services that an individual school district can provide."[14]

Schools with established community networks can access other social services to assist the family in treatment by referral to nurses, doctors, and social workers. The school system can monitor progress and problems concerning ongoing treatment and if necessary, provide or suggest further intervention.

Teachers, because of their position of being "in loco parentis" to their students, have an inherent duty at common law to take whatever action a reasonable and careful parent would in the circumstances to ensure the safety and well-being of the child. Expectations of teachers include the following: to know when a student of theirs is at risk of having their safety or well-being jeopardized; when they know or reasonably believe that the safety or well-being is at risk, they need to do something to correct the situation. If teachers do nothing or look the other way to avoid seeing the problem, they are as much a part of the problem as the perpetrator of the harmful activity, and almost as culpable. Liability arises because of the failure to act as a reasonable and careful parent.

In addition to this common law duty, there are statutory obligations. American research, conducted in 1981, reveals that 48 states have recognized the potential contribution of educators in discovering child abuse victims by including teachers among professionals required by statute to report suspected abuse.[15]

Second and third generation reporting statutes have broadened the base of mandated reporters to include teachers. The rationale is that a teacher has the unique opportunity to identify a child in danger of abuse long before the damage becomes severe.[16] With teachers there are no valid claims of privilege or confidence that exempts them from their duty to

report. The only profession generally exempted from reporting is lawyers as the nature of this disclosure falls squarely within the framework of the effective administration of justice. In fact, some provinces have even removed the solicitor-client exemption, so strong is their motivation to place the child's interest as paramount.

There are medical practitioners who comply with mandatory reporting with some degree of reluctance. The concerns of the medical profession are dealt with later in this report, however, one situation bears examination at this point. Many doctors take the position that if they are treating an offender who has disclosed his offences but has not identified any specific children as being his victims there is no duty to report. In such circumstances treatment can certainly continue uninterrupted but can there be any guarantees against further repetition of the abuse? Educators are understandably angry when sexual abuse disclosures are made and it is only then that they realize that medical professionals have had knowledge of the offender for some time. Clearly what is needed is a middle position whereby doctors can feel confident that when they report on a patient the follow up to that report will be handled sensitively balancing the needs of society, particularly the victims with those of the patient.

Generally speaking, our laws do not require one person to come to the assistance of another. However, Good Samaritan laws do exist where there can be established a special relationship between persons. It may be argued that such a special relationship exists between children and society at large. With respect to these societal concerns, the child welfare legislation of each Province and of the Yukon Territories establishes that reporting child abuse and neglect is the responsibility of every person. While the wording varies from statute to statute, the relevant provisions effectively obligate everyone to report who suspects, or has reason to suspect, that a child is in need of protection. In addition, some provincial statutes, for example that of Ontario, enumerate exactly which professions this Good Samaritan law applies to, and it include teachers.

The relevant B.C. statute is the Family and Child Services Act (S.B.C. 1980, c.11.). Mandated reporting is set out in Section 7(1):

- a person, who has "reasonable grounds to believe that a child is in need of protection" shall forthwith report the circumstances to the Superintendent of Family and Child Services or his designate.

Section 7(2):

- except for a claim of confidentiality or privilege that exists between a solicitor and his client, a person following any occupation or profession has the duty to report a child in need of protection.

Section 7(3):

- no action lies against a person making a report under this section unless he makes it maliciously or without reasonable grounds for his belief.

Section 7(4):

- a person who contravenes subsection (1) commits an offence.

Definitions to assist in the interpretation of what it means to be "in need of protection" are found in Section 1. A child is "in need of protection" when he is,

(a) abused or neglected so that his safety or well-being is endangered,

(b) abandoned,

(c) deprived of necessary care through the death, absence or disability of his parent,

(d) deprived of necessary medical attention, or,

(e) absent from his home in circumstances that endanger his safety or well-being."

Inter-Ministerial Initiatives on Reporting:

The introduction and dissemination of the Inter-Ministry Child Abuse Handbook in 1985 recognized the need for a cross systems approach to ensure that more professionals understood their respective responsibilities in this area. The dedication on the first page of the Handbook prepared by The Honourable Grace McCarthy unequivocably states:

"Every adult in this province is responsible for reporting any situation where a child may be in need of protection."[17]

Ministry of Education Initiatives on Reporting:

Since approximately 1980 the Ministry of Education has attempted to deal with the issue of the reporting of the sexual abuse of children. The vehicle to achieve this has been circulars sent out through the Ministry of Education network to the respective administrators. The most significant circular on reporting is School Department Circular #175, entitled Child Abuse Investigations and Schools, dated January 26, 1983. It was signed by the Deputy Minister's of Education and Human Resources and it outlines the reporting and the investigative responsibilities of each of those Ministries. It merits outlining in detail.

"The requirements with respect to child sexual abuse by employees is as follows:

2.2 Sexual Abuse.

2.2.1 When a report is received concerning the sexual abuse of a child in a school by school district personnel, the person receiving the report will immediately notify a social worker in a local office of the Ministry of Human Resources who, in turn, will immediately advise the Superintendent of Schools.

2.2.2 The social worker will immediately consult with the police and agree on a joint strategy to interview the child, the parents and any other sources, (for example, the doctor) necessary to determine whether there are grounds for further investigation.

2.2.3 If the preliminary investigation indicates that the report is unfound, no further action is required.

2.2.4 If the need for further investigation is indicated, a social worker will report to the Superintendent of Schools. The Police may proceed independently according to their mandate under the Criminal Code and the Police Act but will be requested to meet with the Superintendent of Schools and the social worker involved before pursuing further investigations. (For example, interviewing any school personnel.) This meeting would be for the purpose of clarifying roles and facilitating the police investigation on school premises.

2.2.5 Further investigation will be undertaken jointly by the social worker, the police officer and the Superintendent of Schools or by the social worker independently according to the plan mutually agreed between the social worker, police officer and the Superintendent of Schools.

2.2.6 The social worker and/or police will advise the Superintendent of Schools of the results of the investigation and will include only sufficient relative information to enable the board of school trustees to take appropriate remedial and/or disciplinary action, whether or not criminal charges also results.

2.2.7 The Ministry of Human Resources wil be responsible for any service required by the family or the child."[18]

The next Ministry of Education policy circular is #11 dated December 20, 1983 entitled Child Abuse Policy.

This circular, addressed to teachers, represents a comprehensive descriptive overview of child abuse, it's indicators, the reporting procedures, advice respecting interviewing children, the effects of abuse, and resources needed in follow-up of those abused.

A pertinent section under the heading of investigations that directly impacts on our enquiry reads as follows:

"There are, unfortunately, some instances of allegations of abuse by school personnel. These cases must also be reported to the Ministry of Human Resources as required by the Family and Child Services Act. However, these situations will be primarily dealt with by the Superintendent of Schools in terms of Standards of Practice. For further details on procedures in these cases see School Department Circular #175 prepared the 26th of January, 1983."[19]

School department circular #175 sets out the procedures referred to above.

Allegations that a child has been abused by school district personnel

"Allegations of child abuse by school district personnel is usually dealt with as an issue of standard of practice by the board of school trustees through the Superintendent of Schools and therefore, would not normally give rise to an investigation and/or apprehension under the Family and Child Service Act. However, such allegations may give rise to one or more of the following proceedings:

(a) an investigation by the Superintendent of Schools and action by the school board under the provisions of the School Act.

(b) criminal proceedings against the staff member involved.

(c) civil proceedings against the staff member involved (for example, claiming civil damages for assault)."

The next Ministry policy on this issue is policy circular #23 dated September 6, 1985 entitle the Investigation of the Physical or Sexual Abuse of Children in Schools. The substance of this policy circular is an expansion of policy circular #11 relating to suspected cases of phsycial or sexual abuse by school board employees. It merits repeating in full.

"Procedures: Allegation of physical or sexual abuse by school district personnel is not only an issue of standards of practice to be dealt with by the board of school trustees through the Superintendent of Schools, but is also a matter which requires reporting to the Ministry of Human Resources under the Family and Child Service Act and to the police. Allegations will give rise to one or more of the following proceedings:

(a) investigation by the Ministry of Human Resources.

(b) an investigation by the Superintendent of Schools and possible action by the school board and the provisions of the School Act.

(c) an investigation by the local police which may result in criminal proceedings against a staff member involved.

(d) civil proceedings, for example, claiming civil damages for assault.

In suspected cases of the physical or sexual abuse of a child by a school board employee, the procedures outlined below should be followed:

(a) any school board employee who has reasonable grounds for suspecting that a child is being or has been physically or sexually abused by a school board employee shall immediately report the circumstances to the Superintendent of Schools, to a representative of the Superintendent of Family and Child Services, in the local Ministry of Human Resources office, and to the local police. Where appropriate, the school principal should be notified of these actions.

(b) it will be the responsibility of the Human Resources contact to consult with the police and the Superintendent of Schools or delegate in order to agree on a joint strategy to interview the child, the parents or any sources necessary to

determine whether there are grounds for further investigation. No further discussions regarding the alleged offence should take place with the alleged offender without consulting the police.

(c) if the preliminary investigation indicates that the report is unfounded, no further action is required.

(d) if the need for further investigation is indicated, the social worker will report to the Superintendent of Schools. The police may proceed independently according to their mandate under the Criminal Code and the Police Act but will attempt to meet with the Superintendent of Schools and the social worker involved before pursuing further investigations, (for example, interviewing any school personnel). This meeting would be fore the purpose of clarifying roles and facilitating the police investigation on school premises.

(e) further investigation will be undertaken jointly by the social worker, the police officer and the Superintendent of Schools, or by the social worker or the police independently according to the plan mutually agreed between the social worker, police officer and the Superintendent of Schools.

(f) the social worker will advise the Superintendent of Schools of the results of the investigation and will include only sufficient relevant information to enable the board of school trustees to take appropriate remedial and/or disciplinary action, whether or not criminal charges also result. It should be noted that the police are governed by the provisions of the Privacy Act and access to the Information Act and as a result where charges are not laid the information made available may be limited.

(g) the Ministry of Human Resources will be responsible for assessing whether or not further intervention, to protect the safety and well-being of the child, is required.

The last brief in the Ministry of Education dealing with this area was prepared in September of 1985 by Mr. Wayne Desharnais entitled Prevention of Child Abuse. This document describes the recent services and activities of the Ministry of Education, policies of 1983 through 1985, the establishment of a multi-agency committee, the encouragement of local school districts to develop prevention programs and make use of available resources respecting child abuse. It also indicated some gaps that need attention, work with respective teachers and facilities of education, in-service work with teachers; developement of curriculum resource units, review of materials being comerically promoted; updating of inter-Ministry policies; amendment of the School Act to refer to the requirement to report suspected child abuse; avoidance of local inter-agency conflicts

and investigation of cases of suspected abuse of children and a need to prosecute individuals not reporting.

The recent Ministry of Education circulars dealing with reporting and those outlined in the Education section of the Inter-Ministry Handbook are at odds. The Handbook stresses the following:

(1) all school employees, alerted for signs of child abuse, shall promptly report their suspicions to a social worker within the local Ministry of Human Resources office, and notify the school principal of their actions.

(2) in the event of suspected physical or sexual abuse, educators shall report their suspicions to both the Ministry of Human Resources and the police. Both agencies should be notified that the report has been made to the other agency.

(3) statements made to school employees should be recorded in the child's own words. School employees, while offering support, should refrain from interviewing the child after receiving the child's first disclosure. Interviews will be conducted by police and/or Ministry of Human Resources personnel. In the event that a child has a disabling condition which impedes his ability to communicate, (for example, he is hearing impaired) steps should be taken to locate an individual who is familiar with the disabling condition, to assist with interviewing the child. In all cases, principals are required to allow the investigating social worker and the police to interview the child in the school. As the school is a safe, neutral environment in which to conduct interviews which are sensitive to the child's needs, social workers or police officers may choose the school as an interview site. It is expected that the principal shall advise the investigating social worker or police officer of pertinent information.

An overriding concern to these reporting procedures is outlined in bold type. **These responsibilities cannot be assumed by school district personnel.**

Comparing the above with Ministry Circular #23 of September 6, 1985, teachers are directed to:

(a) report physical or sexual abuse to the Superintendent of Schools;

(b) then to the Ministry of Human Resources and the Police;

(c) perhaps to the Principal

Clause (1) of the Handbook instructs all school employees alerted for signs of child abuse (general term used) to report to MHR and then the Principal. No mention is made of the Superintendent of Schools.

Clause (2) of the Handbook instructs educators (is this meant to be restrictive to only teachers) to report physical or sexual abuse (why the departure from the term child abuse) to the MHR and then the Police (in this Clause no mention is made of the Principal at all).

We were unable to discern from Ministry personnel why this distinction was made but clearly it is confusing.

The Handbook also omits talking about a school employee as a potential abuser. This omission we were told was deliberate because at the time the Handbook was printed the comprehensive procedures necessary to deal with the area of employee-abusers had not been completed and it was felt to be unwise to delay publication to await the inclusion of this new area.

Use of Sanctions

How effective has the threat or actual use of sanctions been in encouraging professionals to come forward and report? In British Columbia, in the Family and Child Services Act, there is no specific statutory provision for penalizing people who fail to report a child in need of protection. However, there is the general statutory provision included in Section 7(4) of the Act providing for a penalty for infringing a provincial statute. To date, to our knowledge in B.C., there have not been any prosecutions under this section.

American research also suggests that the threat of criminal liability has done little to encourage teacher reporting. The most common reason given is the lack of enforcement.

At the time of the research conducted by the staff of the Badgley Commission, there had only been two prosecutions, for failure to report in Canada, both of which resulted in acquittals.

It is useful to look at one of these decisions to consider the Court's perspective when addressing this somewhat controversial sanction. In Regina v Cook 37 R.F.L. (2d) a medical practitioner (Cook) was charged as a result of failing to report the suspected abuse of a child to the Children's Aid. That nature of the information which the doctor had was second

hand from the patient of the doctor who was the victims mother. Allegedly the stepfather had been inappropriately touching the daughter. Promises were given to the doctor that the offender was receiving counselling but the doctor did not follow-up to ensure such was happening. Neither did the doctor report this information to the Children's Aid as was required under the statute. Ultimately the stepfather was arrested and the doctor charged.

Upon a reading of the Cook case it appears as if the Court was concerned with deciding if the doctor, in all the circumstances, acted reasonably in not reporting her information on the sexual abuse of the child. In reality the central question should have been simply, did the doctor have reasonable grounds for suspecting abuse for, if she did, she failed to satisfy her statutory duty to report. In acquitting the doctor the Court in the Cook case reflects the tension and unease most people feel in dealing with this complex area. The doctor accepted, without further checking, the assurances that the offender was seeking treatment. In doing so she was undoubtedly honestly motivated probably by a desire to preserve the integrity of the family. Unfortunately, and despite the honest intentions of the doctors, the evil which the reporting statute was designed to eliminate continued unabated.

In broad terms the Cook case shows the futility in attempting to ensure compliance with reporting statutes by providing for penalties in the event of a breach.

The use of sanctions serves both to educate and deter. In dealing with mandatory reporting statutes with sanctions the Badgley Report suggests that the purpose of such legislation is to educate, direct and reinforce good intentions, subject to perhaps occasional symbolic or admonitory prosecution to keep professionals alert to their responsibility. News of proceedings would be circulated in professional journals and the requirement of the law would thereby be emphasized.

As for the deterrent function, penalties may dissuade persons from keeping silent about suspected abuse cases; the shared reluctance of professionals and layman to incur legal sanctions would suffice to counter balance their reluctance to entangle themselves with the criminal justice or child welfare system and to gain the possible opprobrium of relations, friends or neighbours. Penalties possess the potential to educate and deter the general public no less than professionals.[20]

It is our view that criminal sanctions will do little in assuring that laymen and professionals report information on the sexual abuse of a child. Courts are clearly reluctant to

convict well intentioned professionals even if the requisite evidence is before them. The COOK decision is a clear illustration as to the limitations of sanctions to ensure compliance with reporting legislation.

We believe that society's concern must still be with finding ways to ensure that child sexual abuse is reported with greater regularity and reliability. Children are less able than most persons to speak out about the abuses they sustain; some are too young or too incapacitated to be verbal, some are handicapped by fear or ignorance, and some are bound by a desperate love to their abusive families. Adults must provide information that children cannot."[21]

Once the report is made, those receiving the information must act wisely, efficiently and in a timely manner, armed with the knowledge that whatever they do or do not do could impact on the abused child in untold ways.

There are many complex factors that influence a school board employee in deciding whether or not to report. These observations in part have been confirmed by Patricia Levin of Iowa, in an aricle entitled Teachers Perception, Attitudes and Reporting of Child Abuse. The issues addressed in this research study included the following:

(1) to learn the extent to which teachers are aware of their responsibility to report suspected child abuse.

(2) to learn the extent to which teachers feel they have knowledge to detect symptoms.

(3) to learn if teachers are aware of possible legal consequences for failure to report.

(4) to find out if teachers feel there is an adequate administrative procedure for reporting.

The response to the study revealed the following:

(1) there was a generally low response to issue #1 and it was the lowest for sexual assault.

(2) responses to issue #2 paralleled the responses to issue #1.

(3) there was a high moral responsibility to report though in fact very few reports were made and few teachers knew of the legal consequences.

(4) about 50% of the teachers found procedures to be adequate. The observations of the researchers concluded that in spite of the fact that a vast majority of the states had mandated teacher reporting laws and in spite of that fact that 50% of the teachers felt they had adequate administrative procedures in place, only 5% of the teachers ever made a report involving sexual abuse.

The most recent B.C. research suggests that teachers appear to know that cases of sexual abuse must be reported to the proper authorities.

"They are aware that, ethically, they may report a colleague to the police or to the Ministry of Human Resources for sexual abuse without first informing the colleague of their intention to do so. Teachers appear to feel that teachers who have sexual relationships with their students should be reported even if the perpetrator is an excellent teacher who will be dismissed if the allegation is proven to be true. Moreover, teachers indicated that to not report a colleague is, in fact, condoning the abuse. Yet, teachers were not sure if they had to be certain that the abuse occurred in order to make the report to the proper authorities. Therefore, while teachers appear to know that it is their duty to report sexual abuse, they do not have a clear understanding of how certain they have to be in their own minds that the abuse has taken place before they are willing to make a report to the Ministry of Human Resources or to the police. Elementary teachers appear to be more willing than secondary teachers to report a colleague for sexual abuse. Perhaps this willingness exists because the B.C. Teachers' Federation has presented many professional development workshops on the topic of child abuse to elementary school staffs and because many of the elementary schools in the province are teaching personal safety cirricula to the primary grades. Moreover, if age is a factor in who is assigned responsibility for sexual contacts between teachers and students, then it is possible that elementary teachers are more willing to report incidents to the authorities than secondary teachers because secondary teachers may see the adolescents as partly responsible."[22]

When we analyzed the research in attempting to identify the reasons for teachers not reporting, we grouped them under three headings, namely: Values & Beliefs, Legal Inhibitors and Professional Inhibitors.

Values & Beliefs

At the heart of this issue is the very real reluctance to interfere with the sanctity of the family. As most child sexual abuse occurs to a victim by a person known to them - in close or extended family - the informant is causing, through reporting, state intervention into that protected unit. There is the further reluctance to interfere with parental rights. Teachers have indicated that even if moved to report, they fear having to deal with irate or hostile parents. The threat of incurring liability for potentially false accusations is a very real deterrent. Further, the belief held by some is that an unruly or promiscuous child is deserving of what he or she gets. Here beliefs, fears, biases may block the recognition of abuse or deter reporting once abuse is recognized.

When the focus of the abusive situation shifts from a family to a person in a position of trust, many of the above issues are still operative. However, there are additional inhibitors.

The ethical dilemma of informing on a colleague has prevented some teachers from pursuing their obligation to report. Until recently, the B.C. Teachers' Federation Code of Ethics, required that a teacher first go to the colleague in question before taking concerns elsewhere. Although this principle may be sound in normal labour relations practices, it is clearly untenable in attempting to deal with issues as complex as child sexual abuse. For some teachers, the very nature of sexual activity with a child fills them with such abhorrence that they find the evidence incredible; they are shocked and disbelieve that such things could have happened, more particularly by a trusted colleague - another teacher. At the other end of the continuum there are a few teachers who appear not to take the issue seriously enough. It has been reported, in our view irresponsibly, that there is a stated feeling by some that the issue of child sexual abuse has been over-emphasized by a handful of witch-hunting people and that everything would settle down if only these people would disappear and let up on their action. What protection is there for the child, whose safety depends on one group or another interpreting behaviour through a series of value-laden beliefs and assumptions?

Legal Inhibitors

Much of the research we reviewed concludes by demanding clarity in defining the operative words in the Child Welfare or related reporting legislation: "In the instance of child abuse and neglect reporting requirement in education, the intent, we

assume, is to improve the life of the abused child. If in the final analysis, reporting does not achieve this, then the implementation of child abuse and neglect reporting legislation in education is not a low level event but a non-event."[23]

Our review suggests some shortcomings within the law itself. Some generalizations include the following: inconsistencies among various statutes; inappropriate emphasis and implicit biases regarding aims and purposes; lack of a discernible aim or purpose; vagueness in fundamental definitions. To rectify these shortcomings legislators everywhere are recognizing the need for the inclusion of a purpose clause which defines the goals and objectives to be served by the law. It also provides a useful guide for interpretation. Provinces which have recently enacted child protection legislation that have purpose clauses are Ontario and Manitoba.

In addition, clarity of fundamental terms is essential to the successful implementation of reporting legislation. There must be clarity in what to report and who is obligated to report. In British Columbia's Family and Child Services Act, to know what constitutes abuse one must be familiar with legal judgments. It is not clear on reading the definition sections of "a child in need of protection" how expansive or restrictive the term is.

In the Cook case, Judge Nasmith makes the following observations at page 98 referring to the Ontario legislation:

"It will be relevant that there is no definition of sexual molestation and it is not clear as to precisely what a condition of sexual molestation is."[24]

Further down the page the court says, "Child abuse is a very broad and rather vague term used to encompass one of the most insidious diseases in our society."

And further at page 99, "This section (referring to s. 49(2) Child Welfare Act - a section similar in kind to our s. 7) in its vagueness is capable of being read a number of ways."[25]

Our conclusion, after speaking to numerous people in the field, is that the vagueness in the reporting legislation in British Columbia is contributing to a reluctance to report. If educators and school employees are reluctant in the first instance to report because of some beliefs and attitudes it is hardly surprising that a lack of legislative clarity will inhibit still further.

There are arguments advanced for leaving abuse as a general term in the statute to be interpreted by the Courts, as the need arises. The most obvious fear being that the more one specifies illicit behaviours the more one is likely to miss some. Though there is merit to this argument on its face, it fails to recognize that the majority of the persons obligated to report are not familiar with judicial pronouncements on what constitutes abuse. They do not have daily professional experience in working so closely with these issues that they become second nature.

Several teachers, many School Boards and the B.C. Teachers Federation have all told us they are asking for greater clarity in the definition of abuse.

One must remember that the lay person and unsophisticated professionals need only have "reasonable grounds" to form the basis for their obligations to report. That standard is considerably less than that expected to prove, in fact, that a child is in need of protection or, in fact, has been sexually assaulted. These ultimate determinations can only be made at the end of the day by the Courts. A teacher may view a colleague interacting with a pupil in a totally exploitive way that clearly indicates a breach of that colleague's common law duty to that pupil. That same conduct may fall short of satisfying the elements for a criminal charge. Would this conduct indicate a child is in need of protection? Common sense suggests that whenever an authority figure is exploiting his or her relationship with a child to his or her own advantage, that child is in need of protection. What has complicated matters for educators is that the statute mandates that they report this situation to a child welfare or protection agency. Clearly many have viewed their responsibility to report it through their own hierarchy, particularly to their principal or superintendent. Is the Family and Child Services Act the watchdog for all our children or only these who are abused by family members when these children reside in that family, or where the family is incapable of ensuring the safety? The majority opinion appears to be that the Family and Child Services Act is the governing statute applicable to everyone in whatever situation they may find abuse occurring. The minority opinion is one that has been offered by Campney & Murphy, the law firm who acts for the majority of the school boards in the Province. This firm advise that if a child is abused while at school or by a teacher or board employee, this clearly constitutes a breach of trust; however, the child may not be in need of protection pursuant to the Family and Child Services Act. A declaration of principles at the beginning of the statute could assist in determing how expansive this statute is and eliminate this confusion.

Within the Ministry of Social Services and Housing are recent appointments of social workers with the designation "Children's Officer". They will not carry a caseload but assist the region as a consultant in child protection issues. We suggest that a useful part of their function would be to answer questions from educators, Administrators and Board employees as to what constitutes "reasonable grounds". It has been suggested that these people will assist in the education of other professionals and be a link to the community.

As one writer has observed, "the current challenge to American legislators is to communicate to those mandated to report, exactly what is reportable. Another has remarked that in order to prevent abuse, we must be able to predict the occurrence of child abuse, and if we are to adequately predict phenomena, then we must be able to explain them. Further there are numerous working definitions of child abuse, none of them is adequate and no single definition of abuse has succeeded in meeting all the functions that our society asks it to perform. These shortcomings must be addressed seriously if child abuse prevention practices are to be improved in educational systems and among school personnel."[26]

Another legislative stumbling block to effective reporting is Section 22 of the Family and Child Services Act.

"22. (1) No person shall disclose information obtained under this Act respecting an individual except

(a) to his own counsel in a proceeding,

(b) when giving evidence in a proceeding, or

(c) where disclosure is necessary for the administration of this Act or is required by another Act.

(2) A person who contravenes this section commits an offence."

We have been told of instances where a report has been made concerning a School Board employee to the Ministry of Social Services and Housing, and the local School Board has not been informed. If informed, the content or information around the disclosure is, we are told, normally not forthcoming, as Ministry officials suggest section 22 prohibits such an information disclosure . This information is vital to the employer to effectively carry out its investigations, and deal properly with the situation. It is vital in ensuring the immediate safety of students. So powerful is the protection by Ministry of Social Services personnel of their information that when we made a

request to review the files dating back five years to assist in our research, section 22 again was the reasons for the files not forthcoming. If the Ministry of Social Services is the designate to receive all reports from whatever source, and they are required to undertake the preliminary investigation, they must acknowledge a responsibility to share their information, albeit at times highly confidential, with professional groups who need to know, in order that they can carry out their responsibilities. In communities where inter-agency protocols on child abuse have been developed, this reluctance to share information is posing less of a problem because of the recognition that to maintain a privilege on such information is at cross-purposes with the spirit of acting in the best interest of the child. Again, this lessening of the restriction on access to this information does not mean that the information itself is any less confidential. What is being suggested is that a wider interest is served if the strict adherance to absolute confidentiality adopted by the Ministry of Social Services is modified to permit sharing on a "need to know" basis.

Brief mention has been made of the concern of incurring liability if a reported allegation proves to be false. Immunity from liability is provided in S. 7(3), supra, of the Family and Child Services Act; however, few educators appear to be aware of this section or appreciate its significance. What they do not appear to understand is that they are more likely to incur liability for a FAILURE TO REPORT than for reporting a case which turns out to be unfounded. It is our opinion that this expressed fear of incurring liability is unwarranted. It would take an exceptional case of bad faith on the part of the informant to incur civil liability. If all involved in the process believe in the maxim that if we err, we err on the side of the child, few will be sanctioned for taking action. This does not mean to say that procedural fairness is not accorded to the alleged offender. Protocols and procedures around disclosure must again be scrupulously developed to ensure the confidential nature of the information such that alleged board employee has the maximum protection offered by law and custom.

Professional Inhibitors

The organizational framework which delivers the service of education in this province, as with most provinces, is, complex. It is difficult to chart clear, clean lines of accountability. In any organizational framework whenever accountability lines are vague the ability to communicate becomes a source of trouble. Though, on the face of it, the Ministry of Education has appeared to show direction as early as the 1980's on issues of child abuse and the need to report, numbers of

school boards have failed to take heed. Relationships between the Ministry and respective boards appear to range from excellent to non-existent.

Some Boards perceive themselves as being very autonomous, and do not take kindly to direction from Victoria; other Boards look to Victoria for direction and expect guidance and assistance especially in troubled times. The Ministry also seems tentative at times in taking charge and giving direction. As long as the current situation remains, with the Ministry never knowing to what extent their policy or procedural recommendations are complied with, there will be room for vital information to be lost. We were told that some Board members and employees were not aware of the existence of the Inter-Ministry Handbook - some not aware of all the Ministry circulars; some Superintendents aware but not the Board Chairman or members of problems with the sharing of information. Often there appears to be some protection of jurisdiction and the raising of secondary issues as reasons for inaction.

The education system as a whole must arm itself against the sex offender entering its midst. Everyone has a duty to the children to work co-operatively to achieve the goal of eliminating sexual abuse. Teachers and School Board employees need to be assured that it is proper and necessary to hug, hold and comfort children. We must not deter men from teaching in the kindergarten and primary grades. We must not turn all teachers into cold, aloof instructors. What educators need most is a good grounding and education in the issues themselves. The Ministry of Education must recognize the need for such baseline training for employees as must Board members and administrators. Board members must recognize the need for improved hiring and disciplinary practices and educators must look inward and ask themselves the question - Have I always attempted to discharge the duty that I owe to my students that of being a careful and prudent parent? Throughout the hierarchy, whether it is from the Ministry to the Board Chairman, from Superintendent to the Board, from the Board to its employees, or the Federation to its members, accountability must be ensured.

In reviewing the B.C. Teachers Federation Members Guide for 1985-86 there are policy statements that should be revisited to ensure that all are operating within the spirit of placing the safety and well-being of children in a paramount position.

The first policy statement worth consideration is Clause #5 of the B.C.T.F. Code of Ethics which reads: "The teacher directs any criticism of the teaching performance and related duties of colleague to that colleague and only then,

after informing the colleague of the intent to do so, may direct in confidence the criticism to appropriate officials who are in a position to offer advise and assistance.

Though referred to earlier, what wasn't addressed was an explanation as to how this clause is to be interpreted when read alongside of Section 7 of the Family and Child Services Act requiring every person who has reasonable grounds to suspect a report such a matter to the Ministry of Human Resources.

The footnote added in 1985, in our view, is not sufficient to provide certainty for teachers in an area which they are most reluctant to report in the first instance.

Adminstration and Supervision

(a) Principals of supervision policies, 1A03(a) that the BCTF is, in general, against centralized provincial direction and control, and opposed to the idea that teachers as professional person need close supervision.

This policy will need to be relaxed in the event that, when attempting to deal with the issue of child abuse by school board employees the Ministry assumes a measure of central control and direction.

(b) That the BCTF is in particular, against the appointment of any provincial coordinator in any subject or in any broad field area.

It has been suggested that the appointment of an inter-Ministerial group of experts, at the provincial level, is an effective way of assisting in dealing with emergency situations in which local communities are faced with multi-abuse disclosures. Will the BCTF modify their policy statement to fit with such an overall objective?

(c) That the BCTF, because of it's support of curriculum decentralization, does approve, where the need for special assistance has been well documented, the provision of consultative help on a local and/or regional basis.

Could the BCTF support a centrally imposed core curriculum prevention program on child sexual abuse in light of their stated polices?

Clause 41 - Sexual Harassment

Policies 41.01 - That pupils and teachers should have the right to protection from sexual harassment.

41.03 - That sexual harassment should be defined as:

(1) sexual harassment is any repeated and unwelcome sexual comment, look, suggestion or physical contact that: creates an uncomfortable working or learning environment for the recipient; and/or is made by a person who knows or ought to know it is unwelcome.

(2) sexual harassment may be: (a) a single sexual advance especially made by a person in authority that includes or implies a threat; (b) a reprisal made after a sexual advance is rejected.

Procedures 41.02 - That the BCTF take all necessary steps to ensure that no member is a victim of harassment including sexual harassment in his or her teaching situation.

41.04 - That local associations should negotiate sexual harassment protection clauses that include definition and grievance procedures.

The policies outlined above reflect concern amongst the profession to protect employees and students. These policies could be taken as a guide for possible use in the development of procedural statements that the Ministry, Board and Federation agree to be appropriate when dealing with a standard of conduct expected from teachers. In the event that a teacher breaches the standard of conduct, which includes sexual harassment, the opportunity to lay a formal complaint like any other complaint against a teacher should be available.

GENERAL COMMENT - The B.C.T.F. Members Guide has many very useful and well thought out policy statements that may be helpful in developing further co-operative procedures amongst the various arms of the B.C. education system.

"In the end, we conclude that if educators want to play a responsible role in preventing child abuse, then the onus is on

the educational system to organize itself as a practical instrument for carrying out the spirit of the law."[27]

We therefore recommend:

Recommendations:

1. That there be incorporated as amendments, to either the School Act or Regulations thereto, the following sections relating to the reporting of child abuse:

   (i) a duty imposed on School Board employees to report information on child abuse,

   (ii) a statement that a duty to report exists notwithstanding any other duty to any organization or the relationship to the alleged offender (i.e. a colleague),

   (iii) that immunity from liability exists when the report is made in good faith and upon reasonable grounds,

   (iv) that the identity of the informant shall not be revealed except in the course of judicial proceedings.

2. That section 22 of the Family and Child Services Act be amended to permit the sharing of information on child abuse cases on a 'need to know' basis.

3. That the definition of "abuse" in section 1 of the Family and Child Services Act incorporated in the term "in need of protection" in section 7 be defined with greater clarity on the issue of the sexual abuse of a child by an employee in a trust position.

4. That representatives of the Police, School Boards and government ministries undertake the development of standard reporting and investgating protocols for all areas of the Province.

5. That the standard protocols which are developed be delivered to all School Board employees in trust positions and Administrators and trustees by in-service programs and information circulars.

6. That the Inter-Ministry Handbook be revised and updated and widely distributed throughout the Province. School Boards should ensure that all employees are familiar with the provisions of this Handbook.

7. That the newly created position of 'Children's Officer' within the Ministry of Social Services and Housing have as part of its job description, functioning as a resource person for School Boards, Administrators and teachers.

8. That the B.C. Teachers Federation amend their Code of Ethics to reflect any future amendments to legislation on the duty to report.

9. That an examination of the extent of the jurisdiction of the Office of the Superintendent of Child Welfare be undertaken firstly to clarify in what circumstances, is a child in need of protection in order to invoke the Superintendent's authority and secondly to delineate those circumstances in which the Superintendent has no authority to intervene.

(ii) Intervention

The preceeding sections of Secondary Prevention deals with issues around the investigation stages including reporting of child abuse by educators and School Board employees. We will now focus on what takes place in the education system once a report is made.

The mandating legislation for educators in British Columbia is the School Act Revised Statute of British Columbia 1979, Chapter 375 and its Regulations.

Some sections have posed very real problems for educators and administrators when dealing with employees who have sexually abused children. It is necessary to review the pertinent sections and emphasize those which have been particularly troublesome.

It is our understanding, that in practice, when a report of sexual misconduct by an employee is received it ultimately is handed over to the District Superintendent of Schools for investigation and resolution. Suffice it to say, the quality of the investigation, until recently, has rested solely on the ability of the Superintendent. The Superintendent's style of administration and his relationship with his School Board clearly impacts on the extent of the investigation. If a Superintendent is protective of adverse information given him on a teacher and reluctant to share fully with the Board, this places the School Board in the awkward position of having to take action without being confident they have all the facts. Smaller Boards have also complained that they are uncertain as to what constitutes a complete investigation. This insecurity has caused tension and ill feeling between some Boards and their Superintendent which

can impact directly on the Board's attempt to discipline or dismiss an errant employee.

Earlier we considered the problems associated with Administrators and Boards not wanting or being reluctant to confront sexual abuse allegations. Sometimes, if concerned about an employee's performance, some Boards through strongly persuasive counselling techniques, rid themselves of this employee by obtaining his resignation. These Administrators have protected the children in their immediate school district but what of the students in other districts? What information have these Administrators recorded in their files to share with other districts if this employee seeks employment elsewhere? Our fear is that little factual documentation is made or preserved. Whether or not the next district considering employing this teacher receives this necessary information may depend upon the relations between the two districts. Procedures, in our view, ought not to rest on the personalities involved but on sound, carefully thought-out employee-management policy.

Moreover, nowhere in any existing legislation is there a requirment to provide information to the Ministry on an employee who resigns under a cloud of suspicion.

If the information that the School Board receives suggests to them a need to suspend a teacher, they are governed by s.122 of the School Act. It reads:

> Section 122(1) - A board may at any time suspend a teacher with or without pay from the performance of his duties;
>
> (a) for misconduct, neglected duty or refusal or neglect to obey a lawful order of the board; or,
>
> (b) where the teacher has been charged with a criminal offence and the board believes the circumstances created by it render it inadvisable for him to continue his duties.

The first difficulty with section 122(1)(a) is how to define the word 'misconduct'. Though this issue was dealt with earlier in this report, School Boards need to know the minimum standard of conduct expected of their respective employees in order to deal with them in an efficient, fair and expeditious manner. Further, their employees need to know and feel confident that Boards will not act arbitrarily but be guided by sound principles and procedures that are mutually understood. Misconduct is however, not a static condition. It may change

over time. What amounted to misconduct years ago may not be applicable today. Consequently, Boards, Superintendents, teachers and Ministry personnel must review their decision making and expectations from time to time to see if they are in touch with prevailing societal values. Further, some areas of the provinces may set standards of conduct higher than the generally accepted norm, and Boards, school personnel and Administrators must know this.

Another problem associated with Section 122 of the School Act arises because of the inclusion of the work 'or' between section 122(1)(a) and 122(1)(b). A plain reading of this section suggests that a Board has to choose either 122(1)(a) or 122(1)(b) but cannot proceed on both section. Therefore it is highly desirable to amend this section to eliminate any confusion. The amendment would be to include an "and/or" or "both "a" and "b" at the conclusion of section 122(1). This would allow the Board to proceed under both sections simultaneously to ensure that they deal with issues of misconduct without having to wait the outcome of a criminal proceeding involving the same employee. It appears trite to say that a school employee could misconduct himself to the point of meriting discipline by the Board without his conduct amounting to criminal behaviour. Until recently, however, very few cases reported to the Ministry pursuant to section 126 have been for anything other than criminal conviction. This may suggest that:

(a) questionable behaviour is not being observed, or

(b) if observed, not being reported, or

(c) if reported, Boards are not acting because it falls short of criminal activity, or

(d) they have acted upon it but not informed the Ministry.

Section 122(2) of the School Act reads as follows:

> (2) A board that has suspended a teacher shall;
>
> (a) appoint a date within seven days of the suspension when the teacher shall have the opportunity of meeting with the district superintendent of the schools and the board or the district superintendent of schools and a committee of the board; and,
>
> (b) where the teacher is suspended under sub-section (1)(a), within seven days of the meeting reinstate the teacher without loss of salary, or, after the notice required by

the regulations, dismiss him on the same grounds on which he is suspended or take other action permitted by the regulations;

It has been suggested that to increase the time frame beyond seven to perhaps fourteen days, would allow the true nature and extent of the allegation to be revealed. It has been suggested further that the seven day time frame is too limiting for the board to marshall the full extent of it's case particularly as the dynamics of sexual abuse cases suggest that disclosures proceed slowly, and sometimes with some recanting. It has been suggested that 14 days would be a more appropriate time frame to allow the Board to fully collect the evidence which they will need to reach an informed decision.

Lastly section 122(c) of the School Act reads as follows:

> (c) where the teacher is suspended under subsection (1)(b) and is acquitted of the charge or given an absolute or conditional discharge, reinstate him forthwith after the latter of subsection (1) the expiry of the appeal period, or subsection (2) the expiry of the period for appealing from the last court to which an appeal from the decision is taken and which he is acquitted or given an absolute or conditional discharge.

This section suggests that if a teacher is not convicted or has been sentenced leniently, that he has not been guilty of any misconduct which disqualifies him from performing his duties. Such a conclusion is erroneous. Acquittals may result for a number of reasons including technicalities in the law, which say nothing about the qualitative aspect of the conduct in question. In our view there are numerous examples of conduct which do not amount to criminal behaviour which should disqualify an individual from occuping a trust position with respect to children. If an employee has been acquitted or discharged by the courts his conduct should thereafter be fully reviewed by the School Board to determine if he is a fit and proper person to be closely associated with children. Only after such an enquiry, equipped with full procedural safeguards, should a final determination be reached on the future status of the employee. If, after this review, the employee's services are terminated appeal procedures should be provided.

The Privacy Act is a statute that has affected the sharing of information between the Police and School Boards. The relevant section of the Privacy Act is section 8 which places

restrictions on the disclosure of personal information by federal government institutions including the RCMP. The basic rule respecting the use and disclosure of personal information in the Privacy Act is set out in section 7 and 8. Personal information obtained or compiled by a government institution shall only be used or disclosed by that institution for the purpose for which it was obtained by the institution or for a purpose to which the individual who is the subject of the information has consented. However, pursuant to subsection 8(2), certain exceptions to this rule are set out, reflecting situations where Parliament has deemed the use or disclosure to be in the public interest. Included amongst these exceptions are the following types of disclosures:

- for a use consistent with the purpose for which the information was obtained or compiled by the insitution (s. 8(2)(a));

- under an agreement or arrangement between the Government of Canada and the government of a province, or any institution of the federal and provincial government, for the purpose of administering or enforcing any law or carrying out a lawful investigation (s. 8(2)(f));

- for any purpose where, in the opinion of the head of the institution (i.e., the Solicitor General in the case of the RCMP), the public interest in disclosure outweighs any invasion of privacy which could result from the disclosure (s. 8(2)(m)).

It appears from discussions with senior police officials that there is a willingness by the police to co-operate with School Boards and Administrators in sharing information that is necessary for action to be taken pursuant to Section 122. What remains to be done is the formal recognition of this willingness, and the development of a uniform procedure for distribution to all detachments and School Boards.

The next section worthy of comment is Section 124:

Section 124 - Training of Student Teachers.

> "- A board shall, where a request for permission for student teachers to practice teaching and observe tuition has been received from a university established under the University Act or an institution for the training of teachers established under any Act, permit students enrolled at the university or institution free

> access to all classrooms and other school accommodation in accordance with arrangements made by the district superintendent of schools for the purposes of practicing teaching, supervising, observing tuition, and related duties, and a student teacher engaged in any of these duties, (a) has the same disciplinary authority as a teacher in the school;"

A school district or board who is taking into it's schools student teachers, ought to have some assurance by the universities that the students that they are being referred are in fact fit and proper persons to be involved in instruction even in a student capacity. Criteria and guidelines ought to be established between the Ministry of Education, the Universities and ultimately the Boards for receiving such student teachers in their respective districts.

In Section 126 of the School Act the Board "shall without delay report to the Ministry a termination, dismissal or suspension of a teacher in the school district, with the reasons for it."

Section 126 does not address the problem referred to earlier of the teacher who resigns under a cloud of suspicion without the investigation being concluded and definitive action being taken. To rectify this situation, the section could include the proviso that resignations also be sent to the Ministry accompanied by reasons. If the reasons which were provided were insufficient for the Lieutenant Governor in Council to take action under section 15(g) to "suspend or cancel for cause, certificates of qualification" then the Ministry has no jurisdiction to proceed further. They would need the jurisdiction to be able to independently investigate to determine whether or not there was 'cause' to justify decertification. In addition there could be the inclusion in the employee's personnel file that his resignation was "WITH PREJUDICE". This would alert future Boards seeking reference checks that this employee resigned under adverse circumstances. They then could persue this with the prospective applicant. We understand such a procedure is in place with the Nursing profession. If a cerificate was lifted as a result of a subsequent Ministry check, the teacher must have the opportunity to appeal such decisions.

The next section that could benefit from clarification is section 129 of the Act. This section reads as follows:

> - Within ten days after receipt of a notice under Section 122(2), a teacher may appeal under the

regulations to the Minister against a suspension for a period exceeding ten days or a dismissal.

It is the word 'appeal' in section 129 which gives rise to confusion. If, as has been suggested, the rules governing legal appeals applied then any new evidence which became available after the meeting between the Board and the employee would not be admissable at the appeal hearing.

Our understanding is that no Board of Review, to date, has accepted the restricted meaning of the word 'appeal' as outlined herein but it is frequently the subject of arguement. Clearly a legislative amendment would remove any doubt and ensure that a Board of Review could consider all relevant information arising at whatever point in determining whether or not there was "cause" for the action taken.

Section 142 of the School Act provides another avenue for disciplining a teacher.

Section 142(1) - In accordance with it's by-laws, the British Columbia Teacher's Federation may suspend or expel a teacher from membership in the Federation, and a person so suspended or expelled shall not be exployed as a teacher in a public school until reinstated as a member.

The relationship between these proceedings and those under section 122 is unclear. The BCTF Members guide also is silent as to how these proceedings interconnect if at all. If a complaint of sexual abuse is first brought to the attention of the Federation for investigation under section 31.C.02 and C.04 of its Code of Ethics, there appears to be no requirement that the Investigation Committee of the B.C.T.F. inform the Superintendent or the Ministry. Obviously if this Committee ultimately determines that the member is to be expelled from the Federation, the teacher can no longer remain employed because section 140 of the School Act requires membership in the Federation as a term of employment. However, expulsion from the Federation can be for reasons that Boards or the Ministry may not need or care to know about.

Hopefully with strengthened reporting protocols and increased awareness of the duty to report complaints of sexual abuse laid with this Investigation Committee of the Federation will be shared with the Ministry of Social Services and Housing as well as the Police.

The School Act in section 145 considers part-time teachers as follows:

Section 145 - A person shall not be employed as a teacher in a public school unless he holds a teacher's certificate of qualification issued to him by the Ministry, or a letter of permission issued to him under Section 5(b), except that a person,

(a) employed for twenty consecutive teaching days or fewer in teaching a particular class or classes where no teacher holding a certificate of qualification is available;

(b) teaching in a night school;

(c) engaged as a short term instructor in a vocational school and who possesses the appropriate qualifications prescribed by the Lieutenant Governor in Council, may be employed without a teacher's certificate of qualification or letter of permission.

These teachers, albeit part-time, ought to be scrutinized under the same set of guidelines as teachers coming into the profession on a full-time basis.

In Section 146 of the School Act certification may only be granted to a person of good moral character and if he proves he is a fit and proper person. This section reads as follows:

Section 146 - A certificate of qualification for teaching shall not be issued to a person who does not furnish the Minister or his authorized representative satisfactory proof that he is of good morale character and a fit and proper person to be granted a certificate.

The granting of a certificate should adhere to strict guidelines and criteria to be satisfied. The BCTF members guide has in fact a very substantial outline relative to this area that may provide assistance and it is headed Teacher Certification Policies Section 30.c.01.

Having reviewed and commented upon the relevent legislation we recommend:

1. That a standardized protocol be developed to assist and guide Superintendents in conducting investigations into the sexual abuse of children by employees in trust positions. This protocol should address inter alia:

   (i) the nature and extent of the investigation,

(ii) the documenting of information and evidence obtained in the course of the investigation,

(iii) the requirement of full and frank disclosure to the Board,

(iv) the relationship of the investigations of the police, Ministry of Social Services and Housing and the Superintendent, all of which may be proceeding simultaneously.

2. That all parties who investigate allegations of sexual abuse by School Board employees establish uniform protocols to share information on an need to know basis.

3. That standardized practises be developed to ensure:

(i) personnel files of all employees fully and adequately reflect the true reasons for resignation,

(ii) resignation involving child sexual abuse allegations will be reported to the Ministry of Education in Victoria,

(iii) that allegations of child sexual abuse not only be noted on personnel files but are transmitted if information is requested on the alleged offender by another district.

4. That Section 126 of the School Act be amended to mandate that full reasons for the resignation of an employee involving sexual abuse of a child be sent to the Minister such that a determination can be made if there is sufficient cause for decertification.

5. That a file on the case law on misconduct of teachers and Board employees be maintained for use by Administrators and School Boards when they are dealing with Section 122 of the School Act.

6. That Section 122(1)(a) of the School Act be amended to include an "and/or" option at the end of the section, to allow a Board to proceed under both sections simultaneously, to ensure that they deal with the issues of misconduct without having to await the outcome of the criminal proceeding.

7. That the seven day time frame in Section 122(2)(a) & (b) be amended and extended to 14 days to provide the Board a better opportunity to conduct a fuller investigation.

8. That section 122(2)(c) be repealed as it does not take into account the fact that even though a person may be acquitted in the criminal courts, his conduct may be cause for ongoing concern when working with children and this section prevents School Boards from undertaking such a review.

9. That formal recognition be made that the Privacy Act will not act as a deterrant in the useful sharing of information between Police agencies and those persons responsible for undertaking independent investigations; and that a uniform procedure will be developed for distribution to all detachments and School Boards.

10. Pursuant to Section 124 of the School Act, when dealing with Student Teachers, the need for the Ministry of Education, Universities and Boards to establish criteria and guidelines for receiving such students in the respective districts.

11. That Section 129 of the School Act be amended to eliminate any confusion arising as a result of the word "appeal" by stipulating the nature of this proceeding.

12. That the B.C. Teachers Federation, in conjunction with the Ministry of Education and representatives from the School Boards determine how information possessed by the Federation concerning the expulsion of a teacher from membership in the Federation for sexual misconduct will be shared.

13. That the granting of a certificate by the Ministry under Section 146 of the School Act adhere to standardized guidelines and criteria which should be incorporated into a Regulation to the School Act.

CHAPTER V

TERTIARY PREVENTION - TREATMENT

Treatment Issues

(i) The Victim:

On the harm which may flow from the sexual victimization of children, the Badgley Commission noted that "even in children as young as two or three years old, there can be major behaviourial changes and symptoms of severe psychological distress."[1] And further "in the judgment of attending hospital staff, about one in six sexually abused children was considered potentially to have suffered long-term emotional and/or behaviorial harm."[2] Current research suggests that approximately thirty percent of known abusers have themselves been abused as children or youths. There is, therefore, support for the proposition that children who have been abused have a much greater chance of themselves becoming abusers in their adult years. The behaviors exhibited by children or youths who either have been or are being sexually abused can effect the ability of the child to learn and develop socially. To correct these disabilities to learning through treatment involves educational and health professionals working knowledgeably and cooperatively.

The Badgley Commission found that substantially more children were emotionally harmed than physically injured and long-term emotional harms were over six times as likely as long-term physical injuries to be consequences of child sexual abuse.[3] Research shows that the amount of emotional harm which results from the sexual abuse of a child is often dependent upon the nature of the relationship between the child and the abuser. As a general rule the stronger the trust relationship which exists between the abuser and his child victim the greater the harm which may result when this trust is violated.

No authority beyond common experience needs to be cited to state the enormous trust relationship which exists between a child and his teacher/principal at school. Children see their teachers in roles which approach that of being parents.

Another feature about the harms associated with the sexual abuse of children is that the damage, if any, which is apparent at the time of discovery is not guaranteed to be that which might appear in the future. The emotional damage associated with the sexual abuse of children may lie dormant for

many years and appear much later in life. When such symptoms do re-appear they are, by virtue of being so separated from their cause, very difficult to diagnose and treat. Again the nature of the trust relationship which has been violated will often contribute significantly to the severity of the damage which appears long after the abuse has ceased.

(ii) The Offender:

It is worth noting that those individuals who have a propensity to sexually abuse children seek out, by their occupational and leisure activities, those professions which bring them into close contact with children. Children often satisfy many inadequacies in these individuals. Feelings of low self esteem and personal inadequacy are the most dominant character traits of adult sexual abusers. Children are not as threatening to these individuals hence they are more desirable associates. Employment by a school district therefore represents a very attractive choice for those who wish to utilize their daily close contact with children to meet their own selfish and destructive needs.

School district employees are in close proximity to sexually abused children, and, by virtue of their positions can, through understanding the dynamics of the syndrome, contribute significantly to the treatment and rehabilitation of the child. A sympathetic and informed approach to the sexually abused child by school district employees will aid significantly the prospects for a cure. This assistance must, of course, proceed in cooperation with the family and health care professionals who are also treating the child. If the offender has been in a trust relationship to the child by virtue of being a school district employee the other employees in similar positons who have contact with the child thereafter need to take special precautions to ensure that the childs' faith in the system is secure to the point where there is an environment in which the child can learn and develop emotionally.

As previously noted sexual abusers of children have character deficiencies which also require treatment in addition to their sexual maladjustment. The best method of treating sexual deviancy is the multi modal approach whereby the total individual is assessed and treatment is designed to impact upon all the deficiencies which are revealed. An attempt to treat a sexual deviancy which ignores the other character deficiencies of the individual has much less chance for success than a comprehensive approach. Treatment programs, utilizing a multitude of modalities, and administered by trained professionals, must be available both inside and outside of custodial settings. It is virtually impossible to prevent adults having access to children

hence it is only through treatment that sexual abusers can be removed as a potential danger to children. Once an employee of a school board in a trust position has been detected and exposed the future protection of children from the activities of this individual becomes a primary focus of all those concerned. School boards, government officials, the justice system and the medical professionals all must be concerned with the future protection of children. Each action taken subsequent to the detection of a sexual abuser must have, as its primary focus, prevention of the repetition of the offensive conduct. It is obvious that in some cases the conduct is so offensive that long term incarceration is the only alternative but, in others, shorter terms are warranted. In every case, however, treatment of the offender is an essential part of ensuring that there is no repetition of the offence. It is in this manner that treatment of offenders becomes a method of prevention.

It is apparent that school boards as well as the courts, in fulfilling their obligation to protect future victims, require information on the assessment of offenders and the realistic prospects for cure. Such information can only be provided by highly trained professionals.

We are of the opinion that there are only a very few such trained experts on offender treatment in the Province of British Columbia. We are even more certain that those who must deal with sexual offenders in the post discovery stages are unaware as to where and from whom they may obtain expert assistance in assessment and treatment. In truth there are no comprehensive treatment programs for sexual deviancy available in the province either inside or outside of custodial settings. This is a weakness which must be rectified if any program of prevention is to be successful.

In our review of the treatment issues we considered the role of the medical general practitioner in the province. It is our opinion, based on the experience of past cases combined with discussions with medical experts in the field, that the general level of knowledge of the average doctor on issues involving victim and offender treatment and assessment is lacking. It is normal for the general practitioner to be the first medical contact with either the victim or the offender and his knowledge and understanding of the dynamics of the syndrome can often be crucial to the ultimate treatment outcome. It is in the early stages of detection, identification and assessment that the general practitioner requires a working knowledge. After this stage of treatment has been concluded the normal medical practise of consultations and referral of the patient to experts in the field will take place. It is our opinion that solid gains in the elimination of sexual abuse and more effective treatment of

victims and offenders would result from increased knowledge of the syndrome by medical general practitioners.

In addition to increased medical knowledge on the subject of sexual abuse doctors need to be current in their obligations to report such occurrences. The entire issue of the obligation of doctors to report information on the sexual abuse of children is controversial. The medical profession adopts the view that their obligation to report will act as a deterrant to abusers who might otherwise come to them for treatment. The doctors suggest that the best method of ensuring that future children are not abused is to effectively treat those abusers who come foreward. It is suggested that any impediment to sexual abusers seeking treatment is not in the best interests of other children who may become victims.

In response others argue that abusers don't normally want or seek treatment and the advantages in reporting outweight any claim of confidentiality which might arise.

In our opinion there is merit in the medical arguement however, in the present context, we believe that the balance is in favour of maintaining the current obligation to report. What is required is a fresh look at this area to consider if new approaches merit consideration. If, for an example, each case was considered upon the basis of what is the best approach for the child victim and this decision was arrived at by a multi-disciplinary team the doctor's reluctance to report might be minimized. Is it necessary to have court intervention in every case? Might treatment of the offender be in the best interests of the victim? Will the offender receive effective treatment if incarcerated? These are questions which, if answered, might service to reduce the medical reluctance to report.

The role of school boards in the treatment of offenders and victims requires clarification by way of policy statements. Do school boards have the jurisdiction to suspend employees in trust positions with conditions that they undergo treatment? What is the role of the Board to the victim/student and his/her parents after there has been a disclosure? In our view this area requires clarification and policy directions.

Recently the disclosures of sexual abuse in the school setting have taken the form of multi-abuse situations. These disclosures have the capacity to traumatize entire communities and shake the educational structure in the district. The media tends to sensationalize these situations to the point where, simply because of the coverage, the damage to the victims, their families, and the entire education system is increased dramatic-

ally. The press treatment of multi-abuse disclosure situations tends to leave the impression that such events are common and there are no efforts at prevention being attempted. Such impressions are, of course, misleading but the past experience of dealing with multi-abuse disclosures reveals some valuable lessons.

In our opinion the multiple abuse disclosure involving a school district employee in a trust position requires the immediate intervention of a team of experts, the leader of which has cross-ministry jurisdiction. In our review of the multiple abuse cases to date we have found that there was an expenditure of considerable financial and human resources which was accompanied by a genuine spirit of concern and desire to help. These resources and efforts were not maximized however because there was no coordination of the efforts. The most important requirement in these situations is to have one person in charge of directing and focusing all the intervention efforts. This individual should be the sole source of information to the media and the contact person for the School Board, parents, police and prosecutors, doctors, social workers and any other professionals or care givers who are involved. This individual should, from his position, be able to coordinate all the efforts to assist in the most efficient manner. This individual should have the authority to direct the efforts of people from many government ministries.

The co-ordinator and a small team of experts should be available to travel to any point in the province to deal with a multi-abuse situation. It would, of course, be necessary to carefully select the members of this team and outline with clarity the emergency criteria necessary to call it into action.

It should be a function of this team, after the event, to evaluate the lessons which were learned by their participation such that a knowledge base of how to deal with these situations is obtained. This information would, of course, be shared with others working in the same field.

Intervention Strategies

An area of substantial disagreement amonst writers who deal with sexually abused children and their families is the respective merits of what has been called the child-centered and family-centered intervention approaches. By way of example, if one compares the sentences of sexual abusers of children in British Columbia and Ontario a wide discrepancy is noted. A simplistic overview suggests that in Ontario the courts adopt a family-centered approach, impose light sentences in the hope of keeping the family unit intact. In British Columbia the child

centered approach appears to be preferred, the conduct and its effects on children are considered of paramount concern and the offenders receive stiff sentences.

The child-centered approach rests upon three assumptions:

1. The primary focus of service should be the victims even though considerable attention may be paid to the offender.

2. Any type of sexual contact between children and adults is morally wrong and damaging to the child.

3. The adult offender is totally responsible for any abuse which occurs.[4]

In this model child sexual abuse is a crime and the criminal justice system is an essential procedural element. Inherent in this approach is the coordinators of treatment between medial and child protection services which are deemed to be essential to assure protection for the child. In this model decisions are reached jointly. The primary concern is the well-being of the child and the total approach is designed to serve this end. The main purpose of this approach is that all members of the interdisciplinary team focus their intervention primarily on the child, while also providing service to others involved in the problem.

On the other hand the family-centered approach rests on three main premises:

1. The primary focus is the family and it is within the contact of meeting its needs that those of the sexually abused child are best served.

2. Children have the inalienable right not to be assaulted and they are entitled to live in their natural homes.

3. Interventions in the affairs of a family is more effectively and ethically achieved when this is done on a voluntary basis.[4]

This model stresses therapeutic intervention and does not rely on the criminal justice system. A decreased use of the courts and an emphasis on the promotion of voluntary therapy primarily provided by child protection workers is a feature of this strategy.

The Badgley Commission concluded that child-centered intervention provided more short-term benefits for sexually abused children but there were other advantages to the family-centered intervention.

It is clear that if the agencies involved with treating offenders or sexually abused children have adopted different models conflict is inevitable.

At the end of the day the model which is chosen may not be as important as ensuring that everyone involved in treating the victims and the offender is in agreement on the approach to be used.

We therefore recommend:

Recommendations:

1. School Boards should specifically recognize that they have a responsibility in the area of treating students in their district who have been sexually assaulted by their employees. Some specific areas include:

   (i) Recognizing that a student who has been sexually abused by an employee may require a new school environment.

   (ii) Advising parents of sexually abused students what resources are available for treatment in the community.

   (iii) Informing themselves of the on-going treatment progress of the student to the end that they may assist if required.

   (iv) Establishing firm policies for dealing with the news media such that they event is not sensationalized. A calm reasoned approach is always the best method to reduce the trauma to the child(ren) involved.

2. That every employee in a trust position and each trustee of a school district become acquainted with the dynamics of the sexual abuse of children to the end that such understanding will assist in the treatment of such children.

3. That a Committee be struck to include representatives of the appropriate government ministries and the medical profession to consider the establishment of a multi-modal treatment program for sexual abusers in the Province of British Columbia. This same Committee should also consider the entire question of the duty of doctors to report disclosures of the sexual victimization of children and how, if at all,

and under what circumstances this legal requirement should be modified.

4. That the provincial Corrections authorities explore options as to how a multi-faceted treatment program for child sexual offenders could be implemented in a provincial institution.

5. That the institutionalized and the out patient multi-faceted treatment programs be coordinated such that those offenders released on probation after serving a sentence may be required to continue their treatment on the outside.

6. The general education of physicians in the efficacious treatment of pedophilia and in the treatment of the children victims of sexual abuse should be increased. This should be done by including these topics in the Undergraduate Medical School curriculum at U.B.C. and in the Postgraduate Education curriculum for psychiatric residents at U.B.C. and in Continuing Medical Education forums. Medical conferences and journals which consider these areas should be encouraged.

7. That the medical profession by and through its professional Association should be reminded of its legal duties to report incidents of sexual abuse of a child.

8. That the appropriate government ministries implement an on-call task force of people experienced in the disciplines required to effectively deal with a multi-abuse disclosure situation. The composition of this team and the authority of its coordinator should be as outlined in this report. Established criteria for the deployment of this team should be set down in a policy statement.

CONCLUSION

It has never been our intention to find fault or take issue with any of the departments, groups or organizations which collectively educate the children of this province. On the contrary we have been struck throughout by how anxious educators are to eliminate sexual abusers from trust positions with children. Past experience however has shown we must do better. Every part of the system must evidence its desire to eliminate the sexual abuse of children by acknowledging that there have been mistakes made in the past and the present is an opportune time to move ahead and institute changes which will better deal with the problem. Everybody has a part to play if we are to succeed.

It is vitally important that all future efforts to deal with this problem remain coordinated and there is accountability at every stage. In our opinion, every change, including legislative change, which is not accompanied by the firm assurance that it will be implemented in the manner and within the time frame intended is likely to fail. It is only that change which is implemented in the coordinated manner suggested which will achieve the desired results.

Sexual abuse disclosures in the school setting, particularly multi-abuse disclosures, are a relatively recent phenomenon. These occurrences have come upon an education system which was never designed to deal with such a complex and traumatic event. The system has responded to some degree but, until very recently, the major changes which are required to deal with this problem have not been fully appreciated.

In our opinion it is very important that the central message of this report not be lost on the pointless exercise of speculating where, if at all, mistakes have been made in the past. Our discussion of past inadequacies was necessary only to assist in determining where future changes would be helpful.

We have found the people associated with the school system in this province to be highly motivated and totally dedicated to their chosen profession. We wish to emphasize that the great damage which has resulted from the disclosures to date have involved a very small number of the total School Board employees in the province. It will require the full commitment of every person associated with the education system to end the sexual abuse of students by those employees in trust positions. It is our hope and expectation, as we move towards the implementation stages, that everyone involved in educating children will join together to eliminate this terrible tragedy.

FOOTNOTES

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25. OISE; supra, p.46

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CHAPTER V

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2. IBID; p.696
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